













# A History of the General Property Tax in Illinois

BY

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## PREFACE

This study found its inception in the seminar of Dean David Kinley, of the University of Illinois, during the winter of 1908-1909. The seminar that year devoted its attention to the subject of taxation in the state in anticipation of the movement for the revision of the tax system which culminated in the appointment of the special tax commission of 1910. Considerable material, gathered by the members of the seminar, dealing particularly with the present day situation, has been made available for this undertaking; and acknowledgment is made in this special manner to Dr. A. E. Swanson, Dr. E. J. Brown, Mr. T. E. Latimer and Mr. J. R. Moore for the assistance afforded by their seminar studies. Moreover, material on various phases of the subject gathered by Professor M. B. Hammond, of the Ohio State University, and by Professor Nathan A. Weston, of the University of Illinois, was also very kindly contributed by them and was of no slight aid in the work. For this generous coöperation I desire to render my thanks.

While the library of the University of Illinois was found to be rich in material, considerable use was made of other libraries. The collection of early state documents in the State Historical Library at Springfield, Illinois, was particularly valuable. Material was gathered also in the New York Public Library, the Indiana State Library, the Library of Congress, the Illinois State Library and the Columbia University Library. Thanks are due to the officers of these institutions for many courtesies extended. I am particularly indebted to the custodian of the public documents in the office of the secretary of state at Springfield, for access to the manuscripts of the unpublished territorial laws, and to the auditor of public accounts, for access to the original account books of the state for the

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ROBERT M. HAIG.

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## A. PRE-TERRITORIAL ORIGINS

### CHAPTER I.

#### ORIGINS OF THE GENERAL PROPERTY TAX IN ILLINOIS.

The organization of Illinois as a territory in 1809 involved no radical change in the character of the existing institutions. No new code of law was substituted for the one in force in the territory when the change in the form of government was made. On the contrary, the old code was carried over in its entirety and used as the basis for the new, subject to such modifications and changes as were deemed appropriate by the territorial legislature.<sup>1</sup> The system of raising public revenues by levying a tax upon property according to its value was one of the inheritances received by the new government from the old. Consequently one must look to the pre-territorial legislation for the primary sources of the general property tax system in the state.

The pre-territorial history of Illinois is the history of a small group of French settlements, established about 1700, which led an unprogressive life for nearly a hundred years before they were submerged by the flood of settlers from the seaboard states after the close of the Revolution. The political control over this group of settlements was subject to frequent change during the century, passing successively from France to England, from England to the State of Virginia, and from Virginia to the United States.

#### *The French Period, 1699-1763.*

The period of French domination began with the establishment of the mission stations of Kaskaskia and Cahokia as outposts of the great French empire in the

<sup>1</sup>*Laws of the Territory of Illinois, 1809-1811*, p. 1; *Laws of Illinois Territory, 1812*, p. 5.

Mississippi valley, which had been the dream of Colbert, the minister of Louis XIV.<sup>2</sup> It closed at the end of the Seven Years' War, in 1763, when France was forced to cede her claims to the region to England.<sup>3</sup> In so far as any direct bearing on the problem in hand is concerned, the period during which the settlements were under the control of the French is unimportant. The population remained small, probably not exceeding two thousand persons at any time,<sup>4</sup> and such governmental functions as were performed seem to have been exercised largely through military and ecclesiastical authorities.<sup>5</sup> In the annals of the villages, as kept by the parish priests, there is no evidence of the levy of any tax or of the existence of any formal financial system.<sup>6</sup>

<sup>2</sup>C. W. Alvord, "Illinois; the Origins", *Military Tract Papers* (Illinois State Reformatory Print), no. 3, p. 7. The French settlement, of which these two villages were the beginning, was situated in the bottom lands of the Mississippi River, in the south-western part of Illinois. Cahokia was founded in 1699 and Kaskaskia a year later.

<sup>3</sup>The actual transfer was made in 1765. *Illinois Historical Collections*, II, xxv.

<sup>4</sup>Alvord, *Origins*, p. 9.

<sup>5</sup>J. B. Dillon, *History of the Early Settlement of the Northwestern Territory* (Indianapolis, 1854), p. 60; Joseph Wallace, *History of Illinois and Louisiana under the French Rule* (Cincinnati, 1893), p. 309 *et seq.*; E. G. Mason, *Kaskaskia and its Parish Records* (Fergus Historical Series, no. 12, Chicago, 1881).

<sup>6</sup>*Ill. Hist. Coll.*, V; Mason, *op. cit.*

It is known that some income was obtained from fines. Thus, in one place the record shows that a fine of twenty-five *livres*, payable in deer skins, was imposed upon those selling liquor to savages or slaves. It was specified that the proceeds from the fines should go for the support of the poor. *Ill. Hist. Coll.*, V, 117. Licenses for trade were issued but whether fees were charged for them is not known. *Ibid.*, II, lxviii.

The effect of the early French settlement upon the financial system of the state was indeed so slight that one might remain entirely ignorant of the fact that there had been any early settlement, were it not for the legacy of some land title disputes and for the common fields of some of the villages which were several times the subject of legislative attention in later years. Art. 8, *Const. of 1818*; *Private Laws*, 1826-7, p. 22; *Laws*, 1909, p. 425.

*The English Period, 1763-1778.*

The change from French to English domination seems to have been accomplished without disturbing, to any great extent, the local customs of the settlements.<sup>7</sup> The English supplied a military government, the expenses of which were provided for without appeal to the French settlers.<sup>8</sup>

*The County of Illinois, 1778-1784.*

A similar arrangement was continued after the occupation of the region in 1778 by George Rogers Clark in the name of the State of Virginia. An act of the Virginia legislature in October, 1778, provided that the expenses of the military government and of those officials to whom the inhabitants were not accustomed should be paid out of the state treasury, but that the expenses of the civil government to which the population was accustomed should be paid in the same manner as formerly.<sup>9</sup> During this period an independent local government was maintained in a very efficient form in Cahokia and in a less efficient form in Kaskaskia<sup>10</sup>; but the sphere of governmental activity was small and the cost formed no problem.<sup>11</sup> The record book

<sup>7</sup>Dillon, *op. cit.*

<sup>8</sup>*Ill. Hist. Coll.*, II, xxv; Captain Phillip Pittman, *The Present State of the European Settlements on the Mississippi, etc.* (London, 1770), pp. 43, 55.

In 1768, however, the English did establish, at Fort Chartres, one of the French villages founded about 1720, a court of law with seven judges. This was said to have been the first court of common law jurisdiction west of the Allegheny Mountains. E. G. Mason, *Old Fort Chartres* (Fergus Historical Series, no. 12, Chicago, 1881), pp. 41, 42. This court proved to be a failure. Alexander Davidson and Bernard Stuve, *History of Illinois* (Springfield, 1874), p. 165.

<sup>9</sup>*Ill. Hist. Coll.*, II, lii *et seq.*; C. E. Boyd, "The County of Illinois," *American Historical Review*, IV, 624.

Another act specified that the religion and customs of the inhabitants were to be respected. Mason, *op. cit.*, p. 49 *et seq.*

<sup>10</sup>*Ill. Hist. Coll.*, II, lxiii *et seq.*, cxlvii *et seq.*; Alvord, *Origins*, p. 11 *et seq.*

<sup>11</sup>*Ill. Hist. Coll.*, II, Introduction.

of Colonel John Todd, the first county lieutenant, shows no evidences of taxes collected.

It is true that the inhabitants were sometimes levied upon for supplies for military purposes. But these levies were not really taxes, for, although they were compulsory in character, the contributors were to be reimbursed.<sup>12</sup> In form, however, they were very similar to taxes. The record reads that "the justices of the court of Kaskaskia assessed the inhabitants of the village according to their wealth, and that by August 31, (1779) there had been delivered into the store-house 54,600 pounds of flour..."<sup>13</sup> In Cahokia, also, each person was compelled to furnish supplies according to his means.<sup>14</sup> For a large proportion of the people, the levies were practically taxes; the supplies were not paid for until years later, and by that time the orders had passed out of the hands of the original owners for the most part, many of them having been sold to speculators for a mere pittance.

*The Northwest Territory, 1784-1800.*

When Virginia resigned her claims to the region in favor of the central government, in 1784, a different kind of history began in the Illinois country. For a little time, it is true, the French were left largely to their own devices; but when attention did begin to be paid to them, local institutions were no longer respected. A well defined attempt was made to change radically their system of local government in order to make it identical with that of the eastern section of the Northwest Territory, of which Illinois now became a part. Thus the history of Illinois after 1784 cannot be interpreted in the same manner as the history of the preceding years. It is no longer the story of a succession of careless, military governments, maintained from some far-away treasury by an authority which cared little whether the inhabitants made use of a particular form of local government; it becomes the story of a civil

<sup>12</sup>*Ibid.*, p. lxxvi.

<sup>13</sup>*Ibid.*, p. lxxvii.

<sup>14</sup>*Ibid.*, p. lxxxiii.

government seeking to organize, in thorough manner and according to a uniform plan, a very large district. To this government there arises the problem of so changing and molding the institutions in the French settlements as to make them conform to the large scheme for the government of the entire north-western region.

It is not necessary to speak in detail of the movement of population from the eastern states to the region north-west of the Ohio River, which began in real earnest soon after the Revolution and continued with ever increasing rapidity, until the whole territory was thickly settled; or of how the region, originally organized under one jurisdiction, was divided time and again into independent, self-sustaining parts until the present arrangement of state boundaries was evolved. It is important, however, to recall this much. When the Northwest Territory was first divided, Ohio was formed. The remainder was called the Territory of Indiana. As soon as the region embraced within the wide boundaries of this territory had developed strength enough to undergo the operation, further divisions were made whereby the territories of Michigan and Illinois were formed. Such divisions and adjustments continued for many years; the boundaries of Illinois, for example, were not definitely fixed until 1840. So between 1784 and 1809 the settlements in the Illinois country were organized successively as a part of the Northwest Territory, of the Indiana Territory, and, finally, as the Territory of Illinois.

It was almost inevitable that a movement such as this should diminish to the point of extinction the influence of the French settlements upon the institutions and customs of the country. The nature of the process of organization made any other result almost an impossibility. Through the early period of Northwest Territorial government, these far western settlements were ignored. Indeed they had no effective representation in the law-making bodies of the territorial governments until 1805.<sup>15</sup> The first attempts

<sup>15</sup>Shadrach Bond was the representative of Knox County in the legislative assembly of the Northwest Territory in 1798. J. B. Dillon, *History of Indiana* (Indianapolis, 1859), pp. 391, 392.

to organize them as a part of the Northwest Territory met with poor success. They were, therefore, of necessity left to shift for themselves until the element composed of settlers from the United States became strong enough in the neighborhood to organize a government without regard to the desires and wishes of the French settlers. The French always had an overwhelming majority against them. At first, they were pitted against the whole northwest, then against the great Territory of Indiana, and by the time the Territory of Illinois was formed, they made up a relatively small element in the population of even that district.<sup>16</sup> As a matter of course, the various territories, as formed, perpetuated the laws and institutions familiar to them and the whole body of the law of this section of the United States presents a homogeneity which would be truly remarkable were it not for the explanation that it swept on in this fashion from the east.

Technically the Illinois settlements passed out of the hands of the State of Virginia in 1784.<sup>17</sup> But the control of the Northwest Territory was not made effective before 1790. In that year, Governor St. Clair first visited the section, organized it into the County of St. Clair, and attempted to establish a civil government.<sup>18</sup> The changes which he attempted to institute were not popular, however, and very little was accomplished. In June, 1793, a correspondent of the Governor wrote: "There has not been a review these eighteen months past, so that it would appear that we have no organized government whatever."<sup>19</sup>

<sup>16</sup>In 1790 there were but 131 American settlers in the Illinois country. During the following decade, however, this figure increased to 1500, sufficient to outnumber the French element, which at this time was about a thousand strong. After this the immigrants increased rapidly in number and the French were soon almost completely submerged. Alvord, *Origins*, pp. 11, 14, 15.

<sup>17</sup>*Ill. Hist. Coll.*, II, cxix.

<sup>18</sup>Boyd, *op. cit.*, p. 635.

<sup>19</sup>*The Life and Public Services of Arthur St. Clair, with his Correspondence and other Papers*. Edited by W. H. Smith (Cincinnati, 1882), II, p. 317.

The first legislation of the Northwest Territory which concerned itself with matters of taxation was passed in 1792. It dealt with the problems of raising a revenue for the local governments, the counties; legislation providing for a territorial tax was not passed until somewhat later. This law was entitled an act "directing the manner in which money shall be raised and levied, to defray the charges which may arise within the several counties in the territory" and it prescribed a rudimentary form of the general property tax as the means for raising the revenue required.<sup>20</sup> It provided that the county court of quarter sessions in each county should, annually, make up an estimate of its expenses for the coming year and send it to the governor and judges of the territory. After considering the estimate and determining what items should stand, they were to certify the resulting amounts back to the courts for levy and collection. This was to be accomplished in the following manner. Every county was to be divided into small districts for which commissioners were to be appointed by the court.<sup>21</sup> These commissioners, meeting together, were to decide the exact proportion of the total sum needed which should be raised in their respective districts. The apportionment was to be made on the basis of the population and the wealth of the various districts, which were assumed to be the best evidences of the ability of the different communities to bear the burden of supporting the government. The commissioners were specifically empowered to take a list of all the male inhabitants over eighteen years of age, "stocks of cattle, yearly value of improved lands, and every other species of property which ought to affect the apportionment."<sup>22</sup> The

<sup>20</sup>August 1, 1792. *Territorial Laws*, ch. 26.

<sup>21</sup>For each district having less than 60 inhabitants, there was to be one commissioner; districts having more than 60 and less than 100 inhabitants were to have two commissioners; and those having over 100 inhabitants were to have three commissioners.

<sup>22</sup>In 1792 there was also passed a law requiring merchants, traders and tavern keepers to pay a small license fee. *T. L.*, ch. 24. Later laws imposed license fees on billiard tables and ferries. Jones and John-

work of dividing the sum to be raised within a particular district among its residents was to be done by a board of assessors, consisting of three men in each district who were also appointed officers. They were to rate the individuals "in just proportion to their wealth in the county and their ability to pay either in money or in specific articles, agreeable to the order of assessment." In case of dissatisfaction with the assessment, any individual might appeal to the courts. The assessment lists, when completed, were to be returned to the county courts who were to deliver them for collection to the sheriff, the constable, or to some special collector appointed by the court. The collection of the taxes was to be enforced by the sale of the property assessed or by the imprisonment of the owners.

Although it is not definitely known whether any taxes were collected in the Illinois settlements under this law, and although it is even probable that none were collected there, it is worthy of note that the first tax law which applied even theoretically to this section provided a form of the general property tax.

In 1795 the law of 1792 was replaced by one taken from the statutes of Pennsylvania.<sup>23</sup> The property subject to assessment remained practically the same as under the old law but the idea of income as the measure of tax liability was made slightly more prominent than formerly. Taxes were to be apportioned among the property owners according to the "yearly value or profit" of their holdings.<sup>24</sup> All unimproved and unsettled lands were exempted from taxation. The methods of administration were changed quite radically. Thus estimates of the annual expenses, instead of being made up by the county court directly and being approved by the territorial legislature, were to be prepared by a county board composed partly of elective

son, *Laws of Indiana Territory*, ch. 79, pp. 475-77, ch. 49, pp. 347-66. The license on traders applied at first only to those who dealt in liquors or goods not produced in the United States. Later it was made to apply only to those selling goods not produced in the territory.

<sup>23</sup>T. L., ch. 53.

<sup>24</sup>This seems to be a variety of the so-called "produce tax."

and partly of appointive officers.<sup>25</sup> The board was, first, to audit the county accounts, allow all just claims, and determine the sum to be raised. Then, taking the lists of property, which were to be furnished it by the township constables, it was to apportion the sum to be raised among the property owners. The constables' lists were to give under the name of every free person a description of his servants, live stock, lands and tenements; they were to show how much of the land was settled upon and cultivated; they were to give an enumeration of all water-mills, boats of the "burthen of twenty barrels and upward and every ferry and other species of property providing a yearly income." The limit on the tax rate for the county levies was placed at seventy-five cents per two hundred dollars valuation. A small head tax was provided for single men over twenty-one years of age, whose taxable property did not exceed one hundred dollars, the maximum for this tax being placed at one dollar.<sup>26</sup> The taxes were to be collected by appointed officials, as had been the case in the old law; but the commissioners were to make the appointments instead of the court, as the old law had provided. Appeal might be made to the commissioners in case of dissatisfaction with the assessments.

In 1798 the governor and judges copied a law from the code of Kentucky which made a distinct change of policy in taxation.<sup>27</sup> This law added to the list of property subject to taxation unimproved and wild lands which until this time had not been taxed.<sup>28</sup> Thus a departure was made at this point from the general idea which had underlain legislation until this time, namely, that the annual income was

<sup>25</sup>The county court of quarter sessions was to appoint three commissioners for each county and each town was to elect one assessor; these officers made up the board.

<sup>26</sup>The legislature at this time also passed a law permitting the overseers of the poor to levy a rate for the purpose of providing for the indigent poor. In laying their rate they were to have "due regard" for the county assessment. *T. L.*, ch. 54.

<sup>27</sup>*St. Clair Papers*, II, 438.

<sup>28</sup>*T. L.*, ch. 82.

a proper test of ability to pay taxes. These unimproved and wild lands were to be divided into three classes according to quality. The rates were to be thirty cents per one hundred acres on land of the first grade; twenty cents on lands of the second grade; and ten cents on third grade land. The methods of assessment and collection were not changed. This act refers specifically in one clause to the Illinois counties of Knox, St. Clair, and Randolph so that it is certain that the legislature intended that law should be enforced in the Illinois country.<sup>29</sup>

Prior to this time (1799) the legislation had dealt with taxes which were to be levied only for local purposes and no provision had been made for a territorial revenue.<sup>30</sup> But now the legislature evolved a scheme of taxation which provided for both local and territorial expenses and which was destined to be of permanent significance, for it remained in force practically unchanged in its essential features for twenty-five years and through three changes in the form of government. This legislation, which was passed by the First General Assembly of the Northwest Territory in 1799, dedicated to the territorial government, to be used for general territorial expenses, all taxes received from the levy made upon lands, and to the local governments all other taxable property to be used as the basis for the country levies.<sup>31</sup> The most interesting point in this law is its utilization of a method of segregating the sources of the taxes. But the segregation was of a different type than that urged by present-day reformers, the land being taxed by the central authority and the personalty by the local, instead of vice versa.

There were no elected assessors under this law, the administration being placed wholly in the hands of com-

<sup>29</sup>*Ibid.*, p. 208. Knox County, although in fact an Indiana County, included at this time a large part of what is now southeastern Illinois.

<sup>30</sup>This ignores the slight income which may have accrued from licenses. In 1795 Governor St. Clair writes that he knows of no territorial fund for the payment of territorial expenses, such as postage, for example. *St. Clair Papers*, II, 349.

<sup>31</sup>*T. L.*, chaps. 90, 111.

missioners appointed by the court of quarter sessions. Instead of the property being listed by a constable, the new plan provided that the property owners should, of their own accord, deliver to the commissioners the lists of their taxable property.

Land, the basis for the state tax, was to be classified, as in the act of the previous year, into three grades according to the quality. Lands in the first grade were to be taxed eighty-five cents per one hundred acres; second rate lands, sixty cents; and third rate, twenty-five cents. It should be noted, however, that these rates are not comparable with the rates of 1798 for now not only were unimproved lands to be classified, as had been the case in the act of 1798, but the cultivated also. This explains the increase in the rates over the former scale.<sup>32</sup>

The property made taxable for county purposes was as follows: all houses in towns; "mansion-houses" in the country worth more than two hundred dollars; out-lots; water- and wind-mills; ferries; horses, mules, and asses, over three years old; neat cattle; and bond servants over twenty-one years old. Able-bodied single men whose property did not amount to more than two hundred dollars were subject to a small head tax. The rates varied on the property enumerated above. There was to be charged "on every horse, mare, mule or ass,....a sum not exceeding fifty cents; on all neat cattle, twelve and one-half cents each; on every stud horse, not exceeding the rate for which he stands at the season; every bond servant...., a sum not exceeding one dollar; and every able-bodied single man of twenty-one years and upwards, who shall not have taxable property to the extent of two hundred dollars, a sum not exceeding two dollars nor less than fifty cents." The other property was to be valued by appraisers appointed by the county court. The rate of taxation on such property was not to exceed fifty cents on every one hundred dollars of appraised valuation. The power to estimate the revenue needed and to levy the proper rate was given to the county courts.

<sup>32</sup>Lands in Illinois were not to be rated higher than second class.

*The Territory of Indiana, 1800-1809.*

The following year (1800) the Territory of Indiana was set off from the Northwest Territory, Illinois now being included in Indiana. The tax laws of the Northwest Territory were carried over by the new government with relatively slight modifications.<sup>33</sup> The division of the property between the territorial and county governments for taxation purposes remained unchanged, the revenue from the land taxes going to the territorial government and that from other taxes to the local governments.<sup>34</sup> Before 1809 however, when Illinois became a separate territory, a number of changes had been made in the methods of assessment and collection and in the rates of taxation which are worthy of note.

The manner of securing the lists of property subject to taxation for county purposes was several times revised. One of the first acts of the new government was to change the old law of the Northwest Territory which directed that these lists be turned over to the commissioners by the owners of taxable property of their own accord; constables were reintroduced by a law passed in 1801, as the means for securing the lists.<sup>35</sup> In 1803 the sheriffs were directed to receive the lists, going to each township for that purpose on a previously advertised date and administering an oath to each person as to the correctness of the statement submitted.<sup>36</sup> In 1806 it was further required that the sheriff should apply personally to every individual subject to taxation for a list of his taxable property instead of merely advertising his presence in the township for the purpose of receiving the lists.<sup>37</sup>

<sup>33</sup>O. W. Howe, "The Laws and Courts of the Northwest and Indiana Territories." *Indiana Historical Society Publications* (Indianapolis, 1895), II, 14, 15.

<sup>34</sup>The case of the special land tax for county buildings should be noted here as a possible exception to this statement. *Cf. infra*, p. 22.

<sup>35</sup>*Laws of the Territory of Indiana*, Governor and Judges, 1 Sess., p. 63, Nov. 5, 1801.

<sup>36</sup>*L. T. Ind.*, Gov. and Judges, 4 Sess., p. 63. Nov. 5, 1803.

<sup>37</sup>*Laws of Indiana*, 1 Terr. Ass., 2 Sess., p. 17. Nov. 24, 1806.

A penalty for false estimate or failure to return the lists was now imposed (1803); this was to be a fine of fifteen dollars and a triple tax.<sup>38</sup> The lists were to be delivered by the sheriff to the court of common pleas; this court was to estimate the expenses and levy the taxes.

It will be remembered that in the former law some of the property returned on the lists was subject to specific rates. Some of these rates were changed during this period. Thus in 1803 the maximum rate per head on neat cattle was made ten cents in place of twelve and one-half cents.<sup>39</sup> In 1808 this particular tax was repealed.<sup>40</sup> The property qualification for the tax on single men in 1803 was made four hundred dollars instead of two hundred dollars, and the maximum rate two dollars and fifty cents in place of two dollars<sup>41</sup>; in 1806 the property qualification was reduced to two hundred dollars and the maximum rate to one dollar,<sup>42</sup> and in 1808 the tax was entirely abandoned.<sup>43</sup> By a law passed in 1803, two free-holders in each township, appointed by the county court were to appraise such property as lots, houses, wind-mills, etc., and the maximum rate on this class of property was reduced from fifty to thirty cents for each one hundred dollars of valuation.<sup>44</sup> The age at which slaves and bond servants were subject to taxation was changed to the period between sixteen and forty years; formerly all over twenty-one years of age were taxable.

A very important law from the administrative point of view was the one passed in 1805, prescribing the manner in which the territorial tax should be levied.<sup>45</sup> It provided a method quite different from that outlined in the law of 1799 and took a long step toward modern practice in a number of particulars. Under this new plan, the land

<sup>38</sup>*L. T. Ind.*, Gov. and Judges, 4 Sess., p. 63, Nov. 5, 1803.

<sup>39</sup>*Ibid.*, p. 68.

<sup>40</sup>*L. Ind.*, 2 Terr. Ass., 2 Sess., p. 31, Oct. 26, 1808.

<sup>41</sup>*L. T. Ind.*, Gov. and Judges, 4 Sess., p. 63, Nov. 5, 1803.

<sup>42</sup>*L. Ind.*, 1 Terr. Ass., 2 Sess., p. 11, Nov. 24, 1806.

<sup>43</sup>*L. Ind.*, 2 Terr. Ass., 2 Sess., p. 31, Oct. 26, 1808.

<sup>44</sup>*L. T. Ind.*, Gov. and Judges, 4 Sess., p. 63, Nov. 5, 1803.

<sup>45</sup>*L. Ind.*, 1 Terr. Leg., 1 Sess., p. 30 *et seq.*, Aug. 26, 1805.

was not to be grouped into a small number of classes according to quality, as had been the case under the old system, but was to be assessed according to its exact value. There was to be a regular annual assessment made by a county assessor appointed by the court of common pleas. Each land holder was to deliver to the assessor, under penalty, a list of the lands owned by him. The assessor was also to be furnished, by the territorial government, with lists of lands in each county, made up from records of the United States land offices. Using these lists as a basis, the assessor was to determine the value of the land per one hundred acres, "according to the quality of the soil and the relative situation", ignoring improvements. The rate of taxation was to be fixed by the auditor who was directed to strike a "rate sufficient to produce the sum required" for territorial expenses. The sheriffs of the various counties were made the collectors of the tax. Two years later, in 1807, the assessment of land was made quadrennial instead of annual.<sup>46</sup> In the years when no general assessment was to be made, the territorial auditor was to add to the county lists those lands which had been purchased from the United States during the previous year, valuing such purchases at two dollars per acre. At the same time the power to strike the tax rate was taken from the auditor, the rate being now fixed by law at twenty cents on every one hundred dollars valuation.

An additional use for the territorial tax machinery was authorized in 1808 when the legislature made provision for a special land tax to be levied exactly as the territorial land tax was levied, for the purpose of providing funds for erecting county buildings.<sup>47</sup> The maximum rate which might be levied for this purpose was ten cents on the one hundred dollars valuation.

Efforts to administer the territorial land tax in the Illinois counties met with rebuffs at the very outset. Probably the first territorial tax levied in the Territory of

<sup>46</sup>Jones and Johnson, *op. cit.*, ch. 79, pp. 475-477.

<sup>47</sup>*L. Ind.*, 2 Terr. Ass., 2 Sess., p. 31, Oct. 26, 1808.

Indiana was in 1805 when the law was passed placing a tax on land according to its value, for the purpose of providing for the expenses of the territorial government. In 1806 it appears that no tax was collected in the Illinois counties of St. Clair and Randolph; this failure was due to the fact that the courts of common pleas of these counties had failed to appoint the assessors and collectors.<sup>48</sup> In 1807 the assessor in St. Clair County refused outright to make the proper assessment for territorial taxes; in the same year the assessor in Knox County had, for some reason, failed to do so, and an attempt to assess the tax in Randolph County was accompanied by various irregularities.<sup>49</sup> Again, the next year, 1808, trouble was caused in two of the counties by the failure of the assessors to make out and return the assessment lists.<sup>50</sup> The case of Randolph County in 1807 is the first certain evidence of a tax actually being levied and collected in Illinois.

#### *Summary.*

By 1809 the legislation of Indiana Territory had reached a stage of development in regard to assessment methods which was not attained by the State of Illinois until thirty years later. For, when Illinois separated from Indiana, there was a retrogression in this particular and the scheme of classifying land into rough groups which was again adopted, persisted in the state legislation until 1839. By 1809, however, a system approximating the general property tax was in force in the Illinois country and was the chief source from which both central and local governments derived their revenues. Since the expenses of the government were very slight during these years, and since there were other sources of revenue such as fees and licenses, the taxes levied were undoubtedly insignificant. The system, too, was crude and rudimentary in character.

<sup>48</sup>*L. Ind.*, 1 Terr. Leg., 2 Sess., p. 3.

<sup>49</sup>Jones and Johnson, *op. cit.*, ch. 75, pp. 465-468. The irregular collection of taxes was legalized by this act but the sales of lands for taxes were nullified.

<sup>50</sup>*L. Ind.*, 2 Terr. Leg., 2 Sess., p. 39, Oct. 26, 1808.

Very large exemptions were made and the idea of the income from the property taxed rather than its capital value was often emphasized. From these same territorial beginnings, it would have been possible to develop quite naturally a property tax somewhat similar to the English local rates, where the income from the property is the test of its value and the basis for the apportionment. But the principles established by this territorial legislation were adopted and so extended by the government of the new Territory of Illinois, as to result in the particular form of the general property tax now found in the state.

The influence of the French settlements upon the system of taxation adopted was insignificant. They neither developed a system of their own during the years of their isolation before they became subject to the control of the Northwest Territory, nor did they take an active part in the formation of the system which is found in existence in 1809. Doubtless they could not have made their efforts effective, had they tried, outnumbered as they were in the political division in which they were situated.

A form of the general property tax, then, was the system adopted by the Northwest Territory when the interests of the far western settlements were too slight to be of consequence and when the actual application to them was not seriously attempted. This system was continued by the Territory of Indiana, whose attempts to administer it in Illinois met with difficulties and, in certain instances, with the positive refusal of the county authorities in the Illinois region to coöperate. It was adopted by the territorial government of Illinois because the American element in the population had, by this time, become strong enough to disregard the early French settlers in the Illinois country.

## B. THE FORMATIVE PERIOD, 1809-1838

### CHAPTER II.

#### ECONOMIC CHARACTERISTICS AND THE FINANCIAL PROBLEM.

It is important in taking up the study of the general property tax in Illinois during the early period of its history, 1809-1838, to inquire about the demands made upon the government at this time and about the possibilities of the system of taxation in force as a source of revenue to meet these demands. From one point of view, at this early stage, the two things were really one; for, as will appear, the demands made upon the government at this time were limited almost entirely by the possibility of obtaining revenue to meet them—that is, the fiscal problem was, primarily, what could be afforded rather than what should be done.

The years under discussion make up the period of the state's childhood. Even in 1840 Illinois was still a frontier community, containing only five hundred thousand inhabitants. During these years everything which must be done to make a wilderness a place of habitation for man remained yet to be done for Illinois. There were no public buildings and few school houses; the state owned no public works; there were few roads or other artificial means of communication; courts had to be established and jails erected. In short, Illinois was without a "capital account"; it had no "plant". The state lived, so to speak, in an unfurnished house. It was necessary not only to pay running expenses but to buy the furniture. In addition various unusual calls were made upon the young government. For example, the dearth of a circulating medium very early served as the basis for an appeal to the government to loan its credit as security for the issue of bank notes. Thus the financial difficulty was not only that of operating a government but also of providing the machinery and plant with which to work.

*The Sphere of State Activity.*

On the other hand the problem of deciding upon the sphere of the activity of the government was somewhat simplified by the delegation to private companies and to individuals of many of the functions which are usually considered governmental. Thus, many of the early turn-pikes were built as private enterprises, the promoters seeking through tolls to obtain their return from those using the roads.<sup>1</sup> Bridges were often constructed on the same plan.<sup>2</sup> Ferries were operated by individuals under legislative acts which usually sought to make the enterprises attractive by granting monopolies for a given distance up and down the streams. Schools were almost entirely maintained through private initiative during this period. The dependent poor, instead of being cared for in county institutions, were usually farmed out to persons who could use their labor. The penitentiary even was, for a time, turned over to private individuals for management in order to save money.<sup>3</sup> Among the many devices resorted to for lessening demands which would normally be met by taxation was the lottery. A number of such schemes were projected to meet the expenses of some of the internal improvement projects.<sup>4</sup> There was a custom of locating the county seat at that town within a county which would offer the largest donation of land or of money to be used toward the expenses of erecting county buildings.<sup>5</sup> The location of the state capital itself was determined primarily on this principle.<sup>6</sup> Part of the plot of

<sup>1</sup>The governmental activity in these cases usually extended far enough to fix the maximum rates of toll which might be charged.

<sup>2</sup>Sometimes individuals would advance the money for a bridge with the understanding that the county would reimburse them after a specified time.

<sup>3</sup>*Auditor's Report*, 1839, p. 12.

<sup>4</sup>*Laws* 1819, pp. 257, 310; *L.* 1838-9, p. 56.

<sup>5</sup>Any number of examples of this practice might be given. Some sixty-seven cases of this sort were noted during these years. The acts usually prescribed a minimum grant of twenty acres.

<sup>6</sup>The town of Springfield was chosen as the capital because of the donations pledged to the state treasury. The act passed February 25,

land on which the first state prison was built was sold to raise money to build the walls and workshops. By such methods the government was able to some extent to share in the increment of value which accrued to the land at the place where public buildings were erected and public business transacted. The utilization of the fee system for compensating many of the public officials made possible a smaller tax levy than would otherwise have been necessary. When salaries were paid, they were extremely small.<sup>7</sup>

### *Taxable Capacity of the People.*

To a certain extent it is true that, as the demand for the increase of governmental functions grew, the means for meeting this demand also increased. In 1810, when the territory of Illinois had a population of only twelve thousand people, not so many school-houses, courts and roads were needed as thirty years later when the population was nearly half a million. The increase in population was indeed remarkable in itself, and it may be thought that it should have served as an entirely adequate basis for increased taxation. During the first decade, from 1810 to 1820, the population quadrupled; during each of the two following decades it trebled.<sup>8</sup> But it must be remembered, that it was entirely rural even at the end of the period under discussion.<sup>9</sup> The settlers were largely land-hungry immigrants who had pushed west because of economic press-

1837, locating the seat of the government, fixed the amount of the minimum donation at fifty thousand dollars and two acres of land. *L.* 1836-7, p. 321. In Vandalia, the former capital, public buildings were erected mainly from the proceeds from the sale of four sections of land which had been given to the state by the federal government for that purpose, although some donations were received from citizens. John Moses, *Illinois, Historical and Statistical* (Chicago, 1895), I, 327; J. N. Reynolds, *My Own Times* (Chicago, 1879), p. 137.

<sup>7</sup>*L.* 1815-16, pp. 73-76; *L.* 1816-17, pp. 52-54; *L.* 1817-18, pp. 98-100.

<sup>8</sup>*Twelfth Census; Population*, part I, p. xxiii.

<sup>9</sup>In 1832, Chicago was an unincorporated village with about 250 inhabitants and in 1837 had a population of only 8000. See *Illinois in 1837, A Sketch* (Philadelphia, 1837), p. 119.

ure behind them and with the thought of economic betterment foremost in their minds. The little money they had was usually exchanged at once for land which was capable of yielding only a small immediate return because of the difficulty of securing a market for their products. In 1825 the correspondent of *Niles Register* wrote: "At present, wheat is hardly worth twenty-five cents per bushel, and corn and oats will not fetch more than eight or ten."<sup>10</sup> This was, in large part due to the lack of transportation facilities. As someone has put it, the West, during this period, was "a good place to make a poor living". In 1824 General Coles received a request for information concerning the system of poor relief in Illinois.<sup>11</sup> He replied that he was unable to furnish it, because of "the fact that Illinois has no poor; at least so few that I have not been able to learn anything about them." But if there was little danger of starvation, there was also little probability of securing any fortune except the potential one depending upon the rise in land values. Because of this absence of immediate returns the actual taxable capacity of the people was very small indeed.<sup>12</sup>

To this must be added a pronounced indisposition on the part of the people to submit to taxation. It was a part of the spirit of the frontier. The settlers seemed to think there was something ignoble about paying taxes. An example of this spirit is seen in the speedy repeal of two laws passed at the legislative session of 1825, levying slight

<sup>10</sup>*Niles Register*, XXIX, 165, Nov. 12, 1825.

<sup>11</sup>*Ill. Hist. Coll.*, IV, 51.

<sup>12</sup>The situation was very well summarized by Governor Edwards in his inaugural address in 1826, when he said:—

"In a new state, progressively settling as ours is; without manufactures; furnishing but few articles for exportation; consuming a considerable proportion of those produced by the labor of others; and obliged to employ the most of its active capital in the building of houses, opening of farms, and other improvements which yield no immediate profit; a scanty circulation of money; and consequent difficulty of paying high taxes; are results so probable in themselves, and so fully verified by our own experience that they cannot be overlooked. . ." *S. J.*, 5 G. A., 1 Sess., p. 47, 1826.

special taxes for schools and roads. Governor Ford, in commenting on this repeal, says:-<sup>13</sup>

"The very idea of a tax, though to be paid in labor as before, was so hateful, that even the poorest men preferred to work five days in the year on the roads, (as under the old poll arrangement) rather than to pay a tax of twenty-five cents, or even no tax at all." The members of the legislature well knew the temper of the people on this question and steadfastly refused to pass laws which involved the levy of additional taxes. Indeed they sometimes went to great extremes to avoid levying taxes, as when they sold school lands and borrowed the proceeds for the current expenses of government.<sup>14</sup> If they had imposed taxes to meet their legitimate expenses, the lands could have been held for a much more favorable market or could have been retained indefinitely under a lease system. As it was, the heritage of the state in school land was frittered away, in the opinion of many contemporaries, by the reluctance of the legislators to risk their popularity with a tax hating people, by a proper levy of taxes.

*The Agreement With the United States Government.*

Illinois made an agreement with the United States government when the state was admitted into the Union which had important effects upon the taxation problem in the following years. The terms of the agreement were briefly these: the federal government was to give the state one section of land in every township for the use of schools; it was also to give all the salt springs within the state with certain reserves of land about them; it agreed, further, to give five per cent of the proceeds from the sale of lands lying within the state, two-fifths of which amount was to be spent under the direction of the federal government in making roads leading to the state, and the residue

<sup>13</sup>Thomas Ford, *History of Illinois, from its Commencement as a State in 1818 to 1847* (Chicago, 1854), pp. 58-60; L. 1824-5, p. 121; R. L. 1826-7, p. 364.

<sup>14</sup>Gerhard, *Illinois As It Is etc.* (Chicago, 1857), p. 65; Ford, *op. cit.*, p. 77 *et seq.*

to be appropriated by the state legislature for the encouragement of learning; and, finally, the federal government was to allow the state one entire township for the use of a "seminary of learning". The state, in its turn, agreed to exempt from taxation all lands sold by the government for five years after the date of sale and to exempt all lands granted by the federal government as bounty lands for military services while they remained in the hands of the original patentees or their heirs, and for three years thereafter.<sup>15</sup>

The state government leased the saline springs, but used the revenues to improve the properties in order to increase the output of salt, not depending upon them to any great extent as a financial resource for the payment of the expenses of the government.<sup>16</sup> When, about 1830, the springs became worthless for the production of salt, the reserves surrounding them, which amounted to some forty thousand acres, were sold by the state government and the resulting revenue was used in internal improvements.<sup>17</sup> According to the bargain with the United States government, this was the only revenue which the state was free to appropriate, the enabling act specifying that the balance should go to the support of education in one form or other.<sup>18</sup>

Discontent with the arrangement became apparent very early. In some counties where a large proportion of the land was made up of bounty lands which were exempt from taxation, it was found necessary to grant subven-

<sup>15</sup>The enabling act. *R. S.*, 1909, p. 25.

<sup>16</sup>*S. J.*, 7 G. A., 1 Sess., p. 60. In 1819 an attempt was made to borrow \$25,000, the proceeds from the Ohio Salines being offered as partial security. *Ill. Hist. Coll.*, IV, 7-8.

<sup>17</sup>*H. J.*, 8 G. A., 1 Sess., p. 94.

<sup>18</sup>It should be noted, however, that the money which was paid into the various school funds by the federal government was almost invariably borrowed by the state and used to pay current expenses. Thus in 1834, December 4, the state owed these funds approximately \$114,000. *S. J.*, 9 G. A., 1 Sess., p. 11.

tions from the state treasury to enable them to meet their local expenses.<sup>19</sup>

The provision which exempted newly sold lands for five years also worked hardship because Illinois was being settled very rapidly at this time. A real injustice was caused when it was necessary to meet all expenses of government in a given year from taxes levied on the land of those settlers only whose land had been bought from the government at least five years before. During this period the population of the state, roughly speaking, doubled itself every five years so that the land subject to taxation under this agreement was approximately one-half of the land sold and normally subject to the rates. This was the cause of a great deal of bitterness in some quarters, the older settlers feeling that they were being wrongfully taxed to support others. This feeling found expression in an interesting message of Governor Edwards to the legislature in 1830, in which he recommended such drastic action as the abrogation of the agreement made in the enabling act.<sup>20</sup>

*The Failure of the First Banking Venture.*

The part played by the state in the banking ventures of the time is another element which affected the problem of taxation to a considerable extent. During the years just preceding 1820, a great number of banks had been es-

<sup>19</sup>R. L. 1832-3, p. 518; L. 1835-6, p. 231. The amounts expended from the state treasury to counties in the military tract were as follows:—

Two years ending Nov. 30, 1828 .....	\$2938
Two years ending Dec. 1, 1830 .....	\$4875
Two years ending Dec. 1, 1832 .....	\$8950
Two years ending Dec. 1, 1834 .....	\$8950
Two years ending Nov. 30, 1836 .....	\$8550
Dec. 3, 1836-Dec. 1, 1838 .....	\$6000

<sup>20</sup>S. J., 7 G. A., 1 Sess., p. 49. By a long and subtle argument the Governor thought he proved that the public domain remaining unsold within the state really belonged to the state, and he suggested that thereafter taxes be levied on all lands as soon as sold, without regard to any claim to the supposed exemption. In 1837 a delegation was appointed by the legislature to urge upon Congress "the propriety and expediency" of repealing the law making these exemptions. Joint Resolution of January 6, 1837. L. 1836-7, p. 337.

established in the new western states. Ford states that Ohio and Indiana had incorporated about forty each.<sup>21</sup> There were two more in St. Louis and the territorial government of Illinois had chartered two. These banks all issued notes on insufficient security and began to fail about 1820. Their notes had driven out specie, so with the failure of the banks, the country was left without money of any sort, except such as came into the territory with new immigrants and from taxes of non-residents. It was to meet this need that the first state bank was established in 1821. Its only asset was the credit of the state, the legislature pledging this as security for interest-bearing notes, to be redeemed within ten years.<sup>22</sup> One hundred dollars could be borrowed by individuals upon personal security and a larger sum upon the security of real estate. The officials of the bank were charged with having paid little attention to the security offered. That they did not lack borrowers under these conditions is shown by the fact that nearly \$300,000 was loaned out "almost at once."<sup>23</sup> Many people borrowed with no intention of repaying. The notes never circulated at par, and they fell steadily in value from twenty-five cents to fifty and seventy-five cents below par.<sup>24</sup> Auditors' warrants payable in bank notes depreciated with the fall in the value of the bank notes, so that the government in buying its supplies had to pay much more than the market prices to allow for this decline. Only about one-fifth of the \$154,878.87 worth of warrants issued by the auditor in 1825 and 1826 were at par. Nearly one half were at 33 1-3 cents on the dollar and the balance ranged irregularly between these two extremes.<sup>25</sup> In 1826 the government recognized the depreciation by setting a discount rate for bank paper paid out at the state treasury.<sup>26</sup> Paper received at face value for

<sup>21</sup>Ford, *op. cit.*, p. 43.

<sup>22</sup>L. 1821, p. 80; *Ill. Hist. Coll.*, IV, 7.

<sup>23</sup>S. J., 9 G. A., 1 Sess., p. 297; Ford, *op. cit.*, p. 43 *et seq.*

<sup>24</sup>S. J., 5 G. A., 1 Sess., pp. 22, 57; Ford, *op. cit.*, p. 43, *et seq.*

<sup>25</sup>*Aud. Rep.*, 1826, p. 37.

<sup>26</sup>L. 1826, p. 90.

taxes was paid out at as much as fifty per cent discount. Those state officers who received their compensation in the form of a fixed salary were seriously embarrassed by this depreciation and found it necessary to appeal to the legislature for the passage of special relief acts increasing their salaries to make good the losses caused by the bank paper.<sup>27</sup> But the state at last extricated itself from this embarrassing situation. The value of the bank notes after a time was gradually raised by the periodical destruction of those received as taxes and in payment of obligations to the bank; and finally the remaining liability was paid with money obtained from a loan. One hundred thousand dollars was borrowed for the purpose, the famous "Wiggins Loan." This was the beginning of the state debt.<sup>28</sup> The currency situation had important effects upon the problem of the collection of the revenue but here it is intended merely to point out its effect upon the amount of money which had to be raised by taxation. The state's connection with this early banking scheme increased that amount by approximately one-fourth.<sup>29</sup>

#### *The Financial Problem in General.*

But in spite of all this, when one examines the actual amounts involved in the transactions in this time, he is

<sup>27</sup>A law passed in 1823 added 50% to salaries. *L.* 1823, p. 131; *L.* 1824-5, p. 10; Reynolds, *My Own Times*, p. 143; *S. J.*, 5 G. A., 1 Sess., p. 55.

<sup>28</sup>Reynolds, *op cit.*, p. 144. The only possible exception to the above statement is, that in 1819 a loan of \$25,000 was authorized and an attempt was made by Governor Bond to negotiate it. No evidence was found in the accounts of the state treasury of this money ever having been received or repaid. *L.* 1819, p. 16; *Ill. Hist. Coll.*, IV, 7.

<sup>29</sup>*S. J.*, 5 G. A., 1 Sess., p. 64. A report made in 1835 shows that the state was held responsible for almost three hundred thousand dollars (\$299,910.88), minus whatever could be realized from outstanding assets whose nominal value was at the time of this report \$118,523. *S. J.*, 9 G. A., 1 Sess., p. 297. The responsibility for paying the one hundred thousand dollars loan was taken over by one of the later state banks as a way of paying the state some of the profits made by the state in a deal in bank stocks. But this bank also failed and the debt fell back upon the state once more. The banking venture of 1821 increased the state budget by about one-fourth.

impressed by the feeling that this was indeed the era of small things. The largest amount received into the state treasury in any biennium during this period was only \$150,000; the sum total of the budgets for the whole period of thirty years was less than a million dollars. Even at the end of the period, the state was thinly settled and the demands for revenue for purposes which require very large sums to-day were then ridiculously small. Scattered through the state reports, one frequently finds amusing instances which emphasize this. In 1833, for example, the finance committee of the House of Representatives recommended that the annual salary of the warden of the penitentiary be reduced from \$600 to \$300, because, as the report reads, "During the last two years, only four convicts have been confined in the penitentiary; that two of these have been pardoned by the Governor; that the time of one has expired, leaving only one at this time in confinement."<sup>30</sup>

This brief consideration may serve to point out some of the more important factors which shaped the financial problem of the state. It appears, in regard to the scope of this problem, that, first, the state was confronted with the task of organizing itself, and of providing itself with the necessary tools with which to do its work; that, second, the scope of the activity of the state was narrower in some directions, as, for example, in the matter of road building, and broader in other directions, such as banking, than is the case at present. In regard to the ability of the state to solve its financial problem, the examination has pointed out that the taxable capacity of the people was not great, chiefly because of the poor immediate returns from their investments which consisted largely of land; that the state was handicapped by its agreement with the United States government with regard to the exemption from taxation of certain lands, and that, finally, the state's unfortunate experiment in banking, increased very appreciably the financial burden which had to be carried by the struggling young commonwealth.

<sup>30</sup>H. J., 8 G. A., 1 Sess., p. 138.

## CHAPTER III.

### LEGISLATION, 1809-1838.

Although the legislation of the Territory of Indiana was carried over in its entirety by the Territory of Illinois upon its formation in 1809, it must not be thought that all the revenue laws thus adopted were at once put into operation. In fact, it is very probable that there were few Indiana tax laws used in the Territory of Illinois without specific reënactment by the Illinois legislative authorities. As the needs for revenue presented themselves, the Illinois legislature passed laws to meet them, patterned very largely, it is true, after the laws of Indiana, but after the Indiana laws of a period a little earlier than 1809, when the actual separation took place. This was because Illinois was about a decade behind Indiana in her economic development and when she came to choose her laws, she found that those which had been in force in Indiana a decade before, better fitted her needs than those in force contemporaneously, in the neighboring state.

At almost every session during this period, the legislature meddled and tinkered more or less with the revenue system. Changes were often made one year, only to be repealed the next. Governor Ford, in speaking of the condition of law-making before 1827, said:<sup>1</sup>

all the standard laws were regularly changed and altered every two years, to suit the taste and whim of every new legislature. For a long time, the rage for amending and altering was so great that it was said to be a good thing that the Holy Scriptures did not have to come before the legislature; for that body would be certain to alter and amend them, so that no one could tell what was or was not the word of God, any more than could be told what was or was not the law of the State.

Indeed there was often misunderstanding even on the part of administrative officials as to exactly which laws

<sup>1</sup>Ford, *Hist. of Ill.*, p. 32.

were in force. The revisions of the code were very carelessly made. For example, the first territorial legislature in 1812 declared all the Indiana laws which were in force on March 1, 1809, and which had not been repealed by the governor and judges during their régime (1809-1812) to be the laws of Illinois.<sup>2</sup> Yet a revision of the laws of Illinois made in 1815 included the revenue law of Indiana almost exactly as it stood in 1807, ignoring the changes made by Indiana, from 1807 to 1809, by the governor and judges of Illinois, from 1809 to 1812, and by the legislature of Illinois, from 1812 to 1815.<sup>3</sup> A great deal of confusion of this period can be traced to this compilation.<sup>4</sup>

*Property Taxed and the Rates Imposed.*

The Indiana law for levying a territorial tax on land which was nominally adopted by the governor and judges of Illinois in 1809, was evidently little used; perhaps the only time during the three years, 1809 to 1812, was in 1809 when an act was passed which provided for the levy of a slight tax on land, the maximum rate being ten cents on the one hundred dollars' valuation. But here, although the machinery of the territorial tax was used, the tax was in reality only a local one, for the income went not to the

<sup>2</sup>L. 1812, p. 5.

<sup>3</sup>*Revised Laws*, 1815, p. 614.

<sup>4</sup>In the first section of the law, which describes the property subject to taxation, neat cattle were omitted. These had been exempted by the law passed in 1810. But in the section which specified the rates which were to be levied on the various kinds of property, neat cattle were included. P. 614. That the taxation of neat cattle was really not intended by the legislature is shown by the fact that in 1816 an act was passed refunding such taxes as having been levied by mistake by the courts of Edwards and Gallatin Counties. L. 1816-17, pp. 4-5; L. Terr. Ill., 1809-1811, p. 28. The tax on each free male inhabitant who did not pay a minimum land tax was repealed by an Indiana law in 1808. It was reenacted in 1813 only to be repealed the following year. This tax was re-imposed by the law published in the compilation of 1815, the section being copied from the Indiana compilation of 1807. Manuscripts in the office of the secretary of state, acts approved December 11, 1813, and December 14, 1814.

territory but to the counties and was used exclusively for the erection of county buildings.<sup>5</sup> It seems probable that the funds received from the fees and fines proved sufficient for the needs of the territorial government from 1809 to 1812.<sup>6</sup>

One of the important questions discussed at the first session of the territorial legislature in 1812, was that of levying a tax for the purpose of raising a territorial revenue. As soon as the legislature had heard the governor's message and had adopted rules of order, a committee was appointed to consider how a fund should be raised to support the territorial government, and three weeks later the governor signed a bill providing for the levy of a tax for this purpose.<sup>7</sup> Instead of the land tax law inherited from Indiana by which each piece of land was separately evaluated, this act of 1812 reverted to a scheme similar to that which had been in force in the Territory of Indiana before 1805. The land was roughly grouped into three classes according to quality: the bottom lands of the Ohio and Mississippi were considered first grade lands and were taxed at the highest rate, one dollar per hundred acres; all other located lands in the state were rated as second class lands and were subject to a tax of seventy-five cents per one hundred acres; the third class was made up of all claims to land, confirmed by the proper authorities but not yet located, and the tax on this class was thirty-seven and one-half cents per one hundred acres.<sup>8</sup>

<sup>5</sup>*L. Terr. Ill.*, 1809-11, p. 8. This law was similar to the Indiana law of 1808. Cf. *supra*, p. 22.

<sup>6</sup>An act passed in 1809 set aside certain fees and fines which were to constitute a fund to defray the expenses of the territorial government. *Ibid.*, p. 10. No mention is made in the executive register of any tax on land whose proceeds accrued to the territorial government.

<sup>7</sup>Journal of the House of Representatives, in E. J. James', *Territorial Records of Illinois*, 1809-1818, *Ill. State Hist. Library Pub.*, no. 3, pp. 78, 94, 100, 117; *L.* 1812, p. 17 *et seq.*

<sup>8</sup>It may be worth while to note a law passed in 1813 and repealed the following year which, in a sense, was supplemental to the land tax. This law imposed an annual tax of fifty cents on each "free male inhabitant" in the territory, over twenty-one years of age who did not

For six years, until the state had been admitted into the Union in 1818, the act of 1812 remained in force without changes of importance. The division of the property for taxation between the territorial and county governments remained as it had been under the Territory of Indiana, land being taxed by the territory and certain specified property by the counties. The only point of interest is the reversion to the old method of valuing the lands by general groups rather than by individual appraisement.

In a territory where a form of the general property tax had been known and used since the time of its organization, it is rather to be expected that this system should be prescribed in the constitution when that territory became a state. So when it is found that Illinois stipulated the general property tax in its constitution adopted in 1818, discovery is not a surprising one. A very interesting fact comes to light, however, when one endeavors to trace the origin of this constitutional clause. Then it appears that, although the constitution of 1818 was copied for the most part from the constitutions of Kentucky, Ohio, and Indiana,<sup>9</sup> no tax clause such as this appears in the constitutions of those states. And furthermore, when the examination is widened to include all the state constitutions adopted prior to 1818, it is found that in no other instance is the general property tax prescribed with anything approaching the definiteness with which the Illinois clause commits the state to this policy. The clause appears, peculiarly enough, in the bill of rights and reads:

That the general, great and essential principles of liberty and free government may be recognized and unalterably established, we declare: . . . That the mode of levying a tax shall be by valuation so that every person shall pay a tax in proportion to the value of the property he or she has in his or her possession.

Strange as it may appear, this clause in the Illinois constitution seems to have been adopted as a matter of course in the constitutional convention. It was included in the first draft of the constitution as originally reported

pay an annual land tax to the territory. Manuscript in the office of the secretary of state, approved Dec. 11, 1813, and repealed Dec. 14, 1814.

<sup>9</sup>Moses, *Illinois*, I, 284.

and remained unamended throughout the entire convention.<sup>10</sup>

The Maryland constitution of 1776 contains the clause which most nearly approximates the one found in the Illinois constitution. It reads:

XIII. That the levying of taxes by the poll is grievous and oppressive, and ought to be abolished; that paupers ought not to be assessed for the support of the government; but every other person in the State ought to contribute his proportion of public taxes, for the support of the government, according to his actual worth, in real or personal property, within the State; yet fines, duties, or taxes, may properly and justly be imposed or laid, with a political view, for the good government and benefit of the community.<sup>11</sup>

It will be noted here that the final clause provides a loophole large enough to allow for the introduction of an entirely different system.

Shortly after the adoption of the new constitution (1818) the state, for the first time,<sup>12</sup> yielded a share of the land tax to the counties and, in turn, diverted to its own coffers some of the revenue from the taxes on personal property.<sup>13</sup> Three types of property were to be taxed under ordinary circumstances—land, bank stock and negro slaves. One of these, bank stock, seems to have the honor of being the first species of intangible property to be mentioned in an Illinois tax law. However, when not enough revenue was received from the tax on personal property to meet both state and county expenses, a tax for county purposes only could be levied on "Town-lots, carriages for the conveniences of persons, distilleries, stock in trade, and such other personal property as they (through their county commissioners) may think proper."<sup>14</sup>

<sup>10</sup>*Journal of the Convention*, 1818, p. 40, *et seq.*

<sup>11</sup>B. P. Poore, *Federal and State Constitutions* (Washington, 1877), p. 818.

<sup>12</sup>Perhaps the unimportant exception of the slight, special land tax of 1809, for county buildings, should be mentioned. *Supra*, pp. 36, 37.

<sup>13</sup>*L.* 1819, p. 313 *et seq.* The amount received by the state from the taxes on personal property was very small, indeed, practically all of the support of the government until 1833 coming from the land tax.

<sup>14</sup>The power to tax these specified articles and "such personal property

No provision was made for a possible shortage in the revenue for the payment of state expenses. The tax rate on all property was fixed at one-half of one per cent per annum of the value of the property. The state was to take all the revenue from the tax on bank stock while the counties were to receive that from the taxes on negro slaves. The revenue from the tax on land was to be divided between the state and the counties; the former was to as they might think proper" was made more definite by acts passed later. Thus in 1827 (*R. L. 1827, p. 325 et seq.*), some additional property was specifically mentioned as available for taxation, as horses, mares, mules, asses, and neat cattle above three years of age, and watches and their appendages. In 1829 (*R. L. 1828-9, p. 123*), ferries were added. They were to be assessed on the basis of their value or annual income and not more than \$300 was to be collected from any one ferry in any single year. The proceeds of this tax were to be applied to the opening and repairing of roads leading to the ferry. In 1823 (*L. 1823, p. 203 et seq.*), town-lots were to be taxed by the counties if they were not subject to a tax of one-half of one per cent or more to support a town government. In the law of 1827 (*R. L. 1827, p. 325 et seq.*) town lots were declared taxable for county purposes if not taxed by the trustees of the towns. The following general provision was found tucked away in a special act passed and published the same year, 1827, (*Priv. L. 1826-7, p. 4*), entitled "An act for the relief of the Town of America, in Alexander County, and for other purposes": "Hereafter, no tract, or lot of land, lying within the incorporation of any town or village, in this state, shall be liable for any tax except for county or corporation purposes." This is somewhat in conflict with the provision of the general law quoted above. If lots were not taxed by the trustees of the towns, they were subject, according to the general law, to taxation in the regular manner, the revenues being divided between the counties and the state. This special provision would seem to bar the state from receiving its share of such a tax. Whether this difficulty arose in practice is not known.

A slight exemption was made by a law passed in 1836 and repealed about a year later (*L. 1835-6, p. 254; L. 1836-7, p. 49*), which decreed that such bulls as might be designated by county inspectors as suitable for breeding purposes should be free from taxation.

In some special cases the legislature exempted particular bits of property from taxation by the county commissioners. An example of this is an act passed in 1819 (*L. 1819, p. 44*), authorizing John Small to build a toll bridge. The minimum rate was fixed by the act but aside from that restriction, the county commissioners were empowered to regulate the rates. But, the act reads, "said bridge shall not be taxed by the county commissioners under any pretense whatever." A peculiar provision

have all from the lands owned by non-residents of the state, and two-thirds from the lands owned by residents; the counties were to take only the remaining third of the revenue from the resident land tax.

The class to which a piece of land belonged was less arbitrarily fixed by this new law of 1819 than under the territorial law; the class was to be declared by the owner, being no longer determined by such considerations as mere geographical location. Land of the first class was to be valued for taxation at four dollars per acre, land of the second class at three dollars, and land of the third class at two dollars. This valuation, subject to the one-half of one per cent rate, meant a tax of two dollars per one hundred acres for first class land, one dollar and fifty cents for second, and one dollar for third. Under the law in force during the territorial period, the best land had been taxed one dollar per one hundred acres and the poorest thirty-seven and one-half cents per one hundred acres. The new law, then, at least doubled the tax on land per acre.

After the passage of the law of 1819, the division of the revenue from the tax on land between the state and the counties was twice readjusted before a satisfactory arrangement was attained. In 1821 the counties were given two-thirds of all the land taxes, both on residents and non-residents, in place of one-third of the resident land tax which had been their share by the law of 1819.<sup>15</sup> At this particular time the condition of the state treasury was excellent, the income being greatly in excess of the lia-

was that contained in the charter of the Mount Carbon Coal Company (*L.* 1834-5, p. 194), which provided that when the dividends should exceed twelve and one-half per cent per annum, the company should pay a tax into the county treasury, evidently exempting the property of the company until such a state of affairs should come to exist. Interesting also are the charters of two railway companies (*L.* 1835-6, p. 95, *Incorp. L.* 1836-7, p. 341), which specified that a tax of one-half of one per cent should be laid upon the amount of capital actually employed in the companies in lieu of all taxes upon stock and property for both state and county purposes.

<sup>15</sup>*L.* 1820-21, p. 182.

bilities.<sup>16</sup> But this state of affairs did not long continue, and in 1823 the state found it necessary to recall from the counties the share in the revenue from the non-resident land tax granted them two years before, leaving them merely the two-thirds of the resident land tax and the local taxes on other kinds of property.<sup>17</sup> This plan of division held for the remainder of the period—until 1838.

The arrangement under which non-residents paid their land tax to the state and residents one-third to the state and two-thirds to the counties, had several interesting, incidental effects. Thus, while the residents contributed only a small sum to the support of the state government, and the non-residents paid no local taxes whatever, there was considerable bitterness in some quarters where the percentage of land owned by the non-residents was high; for the residents felt that they were bearing the entire burden of making the local improvements which were adding value to the lands of the non-residents.<sup>18</sup> It is impossible to determine how far this state of affairs tended to decrease the sense of responsibility of the state legislators who spent the state money but represented electors who contributed but little to the state treasury; but it is evident that, as a general policy, the practice was an unwise one. In its immediate results, the plan was fiscally successful; it increased the state revenues. Yet, even at best, the arrangement could be only temporary, for it was almost inevitable at this period that the land should come more and more to be owned by residents and that the state revenue should therefore decrease *pari passu*.

In 1823 the bank-stock tax was abandoned. It had proved of no significance fiscally.<sup>19</sup> The auditor's report

<sup>16</sup>Governor's Message, Dec. 6, 1820. *S. J.*, 1820, 2 G. A., 1 Sess., p. 11. "It is pleasing to remark upon the flourishing condition of the treasury. The debt of the late territorial government has been extinguished; the demands against the treasury bear but a small proportion to the funds therein."

<sup>17</sup>*L.* 1823, p. 203 *et seq.*

<sup>18</sup>Ford, *op. cit.*, p. 77.

<sup>19</sup>*L.* 1823, p. 203 *et seq.*

for the two years, 1820-1822, shows that less than one-hundred dollars (\$97.77) was received from non-resident stock-holders and that the revenue from the stock owned by residents was included in an item of \$7,268.23 which represented the total amount received by the state from the local collectors, including the state's share in the residents' land tax. This income was the only support received by the state government from a tax on personal property during this period, the entire state revenue with this slight exception being raised from taxes on land.

By an amendment passed in 1825, counties which found themselves unable to meet expenses under the one-half of one per cent rate were permitted to increase that rate to one per cent.<sup>20</sup> But two years later this rate was again reduced to the old mark.<sup>21</sup>

An act of 1831 changed this classification of lands for taxation by abolishing the third class.<sup>22</sup> This, of course, had the effect of raising the valuation of those lands which may have been rated as third class lands from two to three dollars per acre.

Eagerness to make the taxes as light as possible to new settlers can be seen in the special provision made in the law of 1821 for persons who were paying for their land by installments.<sup>23</sup> "Lands entered and purchased from the United States", the law reads, "whereon only one, two or three installments of the purchase money shall have been paid, shall in no case be valued higher than in proportion to the amount of money actually paid thereon". With the enabling act in force which released newly purchased lands for a period of five years such a measure was needed only to care for cases where the payments for land were extended over a long space of time. Perhaps this law may be assumed to have some significance as marking the earliest attitude of the state toward the question of the deduction of debts.

<sup>20</sup>L. 1824-5, p. 172 *et seq.*

<sup>21</sup>R. L. 1826-7, p. 325 *et seq.*

<sup>22</sup>L. 1830-1831, p. 125 *et seq.*

<sup>23</sup>L. 1821, p. 182 *et seq.*

It is evident from this survey that, although not all property was taxed by each governmental authority, taxes were levied upon nearly all the objects of value in the community. Such exemptions as were made were demanded by the social exigencies of the times. It was a composite system and a more or less haphazard one, the state taxing some types of property and the localities others. This division of property for the purposes of taxation varied slightly from time to time. The main support of the state was the tax on land. The counties, however, shared in this tax after 1819. They received all the proceeds from the personal property taxes, except those from the tax on bank stock which were negligible in amount. Land, as the most valuable item in the social wealth, bore the largest share of the burden. The rates, although raised sharply in 1819 and again in 1831, were much lower all through the period than they are at the present time. Finally the tax was a charge primarily upon the "*thing*" rather than upon the "*person*" and was, in form, a percentage rather than an apportioned tax.

#### *Assessment Methods.*

As might be expected the methods of assessing the taxes were very crude. During the greater part of the period under consideration, the procedure for listing the property of residents was that outlined in the law of 1812 which was briefly as follows: the official assessor would advertise a date on which he would be present in a township; on that day residents of the township who owned taxable property would present themselves at the place advertised and, having been sworn, would list their property with the assessor; penalties for failure to list or for fraud were provided; the assessor would then make up the necessary lists and turn them over to the proper officials.<sup>24</sup> Few changes were made in this system until 1827 when there was substituted for this very primitive method the more modern one by which the assessor called at the resi-

<sup>24</sup>L. 1812, p. 17 *et seq.*

dence of each property owner and demanded a statement of his property.<sup>25</sup> If the property owner was not at home, this law provided that the assessor should estimate the value of the property to the best of his ability, holding the estimate subject to revision upon complaint of the person assessed. This new system was evidently necessary to secure the listing of personal property in particular, for in counties where no tax on personalty was levied, the assessor was not required to call at the residence of the property owner.

From the present day standpoint the penalties imposed under this system seem harsh and unusual. By the law of 1812, in any case of fraud in listing, all the property involved was to be forfeited to the state.<sup>26</sup> This law was repealed in 1814 and the property, instead of being confiscated in such cases, was declared subject to a triple tax.<sup>27</sup> The triple tax was at this time also imposed for mere neglect on the part of the owners to list their property.<sup>28</sup> In 1817 a five dollar fine was added to the penalty for each case of fraudulent listing.<sup>29</sup> By the law of 1821 the penalty of the triple tax for failure to list was somewhat accentuated by the provision that land not listed regularly by the owner should be considered first class land and the triple tax levied on that basis.<sup>30</sup> Then, perhaps in disgust at the inefficiency of the heavy penalties, the legislature in 1821 swept them all away—but only to reenact another set two years later.<sup>31</sup> These new penalties were a triple tax for fraudulent listing and a double tax for neglect or refusal properly to list the property for taxation.<sup>32</sup>

<sup>25</sup>*R. L.*, 1826-7, p. 325.

<sup>26</sup>*L.* 1812, p. 17 *et seq.*

<sup>27</sup>Manuscript in office of secretary of state, dated Dec. 1, 1814.

<sup>28</sup>*Ibid.*, Dec. 8, 1814. A law passed Dec. 8, 1814, provided that any land which had been forfeited under the act of 1812, might be redeemed by paying the triple tax.

<sup>29</sup>*L.* 1816-17, p. 45.

<sup>30</sup>*L.* 1819, p. 313 *et seq.*

<sup>31</sup>*L.* 1821, p. 182 *et seq.*

<sup>32</sup>*L.* 1823, p. 17 *et seq.*

Practice varied in regard to the particular officers designated to list the property subject to taxation. By the law of 1809, the sheriff was made responsible for this work so far as the county levies were concerned.<sup>33</sup> Under the Indiana law this had been done by two free-holders in each township. But all was changed by the law of 1812, by which the assessment for both county and territorial taxes was assigned to an appointed commissioner in each county.<sup>34</sup> Two years later, in 1814, county treasurers, appointed by the governor, were given the task of listing the lands for the territorial tax,<sup>35</sup> and, in 1815, the assessments for county levies were again assigned to two free-holders in each township, according to the old Indiana plan.<sup>36</sup> This reenactment of the Indiana law of 1808 was evidently an unintentional blunder, for haste was made to repeal it and to reestablish the provisions of the law of 1812.<sup>37</sup> By the law of 1819 the assessment in each county remained in the hands of a single appointed official but he was now called a treasurer rather than a commissioner.<sup>38</sup> For two years, 1825-27, this officer was called an assessor,<sup>39</sup> but after 1827 the treasurer was the officer in charge. It is seen, then, that almost without exception the listing and appraising of property for taxation before 1837 was done by a single assessor in each county, who was an appointed rather than an elected official.

As early as 1812, residents were required to make oath to the correctness of their lists of property, as given to the assessor.<sup>40</sup> In 1817 the oath was made very specific. It read as follows:

I, A. B., do solemnly swear or affirm, as the case may be, that this list contains a true and perfect account of all persons, and every species of

<sup>33</sup>L., *Terr. Ill.*, 1809-11, p. 7.

<sup>34</sup>L. 1812, pp. 17, 31.

<sup>35</sup>Passed Dec. 24, 1814. *R. L.* 1815, p. 500.

<sup>36</sup>*R. L.* 1815, p. 614.

<sup>37</sup>L. 1816-7, p. 45 *et seq.*

<sup>38</sup>L. 1819, p. 313 *et seq.*

<sup>39</sup>L. 1824-5, p. 172; *R. L.* 1826-7, p. 325.

<sup>40</sup>L. 1812, pp. 17, 31.

property belonging to or in my possession or care, subject to taxation, and that no contract, change or removal whatever has been made or entered, or any other mode advised or used to evade the payment of taxes.<sup>41</sup>

The oath was retained as part of the system by the law of 1819.<sup>42</sup> In 1821, the efficiency of this plan as a means of securing full valuation was evidently questioned, for power was given to the assessor to go behind the sworn list submitted by the property owner.<sup>43</sup> In cases where he believed the valuation to be too low, he was directed to call the matter to the attention of the county commissioners who were to give a hearing to the property owner, and, if he were unable to show why his property should not be rated higher, they were to assess him on the basis of the higher valuation.

A most interesting change was made by the law of 1829. At this time, strange to say, the oath was given up as an instrument for securing a full assessment. The law reads:

Whenever, in the opinion of the county treasurer, any person shall list his property below its real value, it shall be the duty of said treasurer to alter the valuation thereof, in such manner as to make it as nearly equal to the general valuation of the same species of property as possible; and no person shall be compelled to value his property under oath.<sup>44</sup>

It would be interesting to determine the effect of this change in the law; but so far as it is possible to make any statement from the data available, the presence or absence of the oath requirements seems to have had little effect upon the assessment, one way or the other. The data are very unsatisfactory, however; and the state was increasing so rapidly in wealth and population at this time as to make comparisons of one year with another almost valueless.

Property belonging to non-residents was assessed under a plan entirely different from the one outlined above. Under the law of 1812 such property was to be

<sup>41</sup>L. 1816-7, p. 46.

<sup>42</sup>L. 1819, p. 313 *et seq.*

<sup>43</sup>L. 1820-21, p. 182 *et seq.*

<sup>44</sup>R. L. 1828-9, p. 121 *et seq.*

listed annually by the owner with the state auditor.<sup>45</sup> In 1816 the law was made more detailed and explicit.<sup>46</sup> The auditor was empowered, in case of neglect on the part of the owner, to list the land according to the best information he could procure. Annual registration with the auditor was made unnecessary by the law of 1823. Once listed, the property was to stand until a transfer in ownership was made.<sup>47</sup>

Persons owning land in counties other than those in which they resided were directed by the law of 1827 to list their land with the state auditor in the same manner as non-residents.<sup>48</sup> In 1829, they were given the option of listing such land with the state auditor or with the county officials<sup>49</sup>; but, in 1835, the county officials were directed to administer an oath, in such cases, that the *bona fide* owner of the land resided in the state.<sup>50</sup> This law had been necessitated by the fact that agents frequently listed land, belonging to non-residents, in their own names. This practice, aside from confusing the classification upon which rested the division of the revenues between the counties and the state government, was the cause of loss to the state through the seven and one-half per cent fee which was paid to the county sheriffs for collecting such taxes.<sup>51</sup>

The arrangement for the assessment of bank stock, which was taxable for state purposes in the early twenties, is worthy of note.<sup>52</sup> This, it will be recalled, was the first attempt to tax intangible personal property. Evidently the difficulty of securing a return of such property was apparent, for the law required the banks located within the state to coöperate in the assessment by furnishing the

<sup>45</sup>L. 1812, p. 17.

<sup>46</sup>L. 1815-6, pp. 57-61.

<sup>47</sup>L. 1823, p. 203.

<sup>48</sup>L. 1826-7, p. 325.

<sup>49</sup>R. L. 1828-9, p. 119 *et seq.*

<sup>50</sup>L. 1834-5, p. 51.

<sup>51</sup>S. J., 9 G. A., 1 Sess., p. 174. The auditor's reports show that these refunds were very insignificant in amount.

<sup>52</sup>L. 1819, p. 313 *et seq.*

county treasurers with lists of the resident stock-holders. The treasurers then were required to inform one another by an exchange of communications, of stock owned by residents of various counties, very much as the lists of mortgage owners are exchanged in some states at the present time.

In general these assessment methods were so exceedingly primitive that it seems remarkable that they secured the listing of any property at all. Before 1827, the property owner was depended upon not only to assess himself but also to hunt out the assessor in order to declare his property. The penalties were very heavy, it is true, being double and triple the amount of the tax for neglect or fraud. But the practice of depending upon penalties to enforce laws has usually been far from successful. Heavy penalties were more likely to be effective at this stage than later, however, for all property was of the sort which was difficult to conceal, so that the risk of detection in cases of fraud was relatively large.

### *Collection Methods.*

The method of collecting the taxes was quite simple. The list of resident tax payers was given to the sheriff who proceeded to collect the amounts charged to each individual.<sup>53</sup> After 1827 the sheriff was directed to call at each person's residence and demand payment.<sup>54</sup> Heretofore, this had not been required. Collection was enforced by distress and sale. The taxes of non-resident land owners were payable for most of the period at the state treasury.

A date was fixed on which the sheriff was required to account for the money collected by him <sup>55</sup> and heavy pen-

<sup>53</sup>L. 1812, p. 20; L. 1819, p. 313 *et seq.*

<sup>54</sup>R. L. 1826-7, p. 325 *et seq.* All through the period the sheriff was the officer in charge of the collection of the taxes of the residents. He received as his compensation a percentage of his collections. Seven and one-half per cent was the usual rate.<sup>55</sup>

<sup>55</sup>This date was often changed during the period. For a time it was December 1; then it was changed to November 1; then to December 10 etc. L. 1812, p. 19; Manuscript in the office of secretary of state, Dec. 24,

alties were provided for delay in turning the funds into the proper treasuries.<sup>56</sup>

When the sheriffs found it impossible to collect the taxes, they were empowered, by the law of 1812, to sell the property after a forty day notice, and to pay the taxes out of the proceeds.<sup>57</sup> Land was not to be sold for taxes if there was sufficient personal property to make up the amount of the tax. The laws passed later in the period merely elaborated this procedure. Thus, the law of 1829 only changed the code by specifying in detail the methods to be used in advertising property for sale.<sup>58</sup> Until 1833 the state conducted the tax sales of the property of non-residents; but, at that time, the task was assigned to county officials who turned over the receipts to the state treasury.<sup>59</sup>

Arrangements were made whereby persons whose property was sold for taxes could redeem it within a reasonable time. This redemption period was made two years in 1812.<sup>60</sup> From 1821 to 1827, the period was shorter, one year, but then at the suggestion of Governor Coles it was again lengthened to two years.<sup>61</sup> In 1819, for minor heirs, it was lengthened until one year after the date when the youngest heir should become of age. This provision held through the rest of the period.<sup>62</sup> The person seeking to recover his property sold at a tax sale had to pay a large premium to the purchaser. By the law of 1812 he was

1814; *L.* 1817-8, p. 41; *L.* 1819, p. 313 *et seq.*; *R. L.* 1826-7, p. 325 *et seq.*; *L.* 1836-7, p. 194.

<sup>56</sup>In 1818 the penalty was made one per cent per day; in 1823 it was changed to one per cent per week for state funds and one per cent per month for the county funds; and, finally in 1827, it was made one per cent per week for counties also. *L.* 1817-8, p. 41; *L.* 1823, p. 203 *et seq.*; *R. L.* 1826-7, p. 325 *et seq.*

<sup>57</sup>*L.* 1812, p. 20.

<sup>58</sup>*R. L.* 1828-9, p. 122.

<sup>59</sup>*R. L.* 1832-3, p. 528.

<sup>60</sup>*L.* 1812, p. 20.

<sup>61</sup>*R. L.* 1826-7, p. 325 *et seq.*; *L.* 1820-21, p. 182 *et seq.*; *S. J.*, 5 G. A., 1 Sess., p. 26.

<sup>62</sup>*L.* 1819, p. 313 *et seq.*

compelled to pay the person who had bought his property the purchase price plus one hundred per cent. For part of the period the penalty stood at this figure and part of the time at fifty per cent, the proportion being changed from one figure to the other several times.<sup>63</sup>

Property sold to the state for taxes could be redeemed, under the law of 1827, by paying the purchase price, plus fifty per cent and subsequent taxes.<sup>64</sup> In 1833 the fifty per cent penalty was removed and there was substituted an interest charge of six per cent per annum on the amount of the taxes and costs.<sup>65</sup>

In cases where property was twice sold for taxes within three years, it was arranged, in 1829, that the original owner could redeem by paying the purchase price and the costs of the first sale and double the amount of the purchase price, interest and costs of the second sale.<sup>66</sup>

#### *Special County Levies and Municipal Taxes.*

Aside from the general uses to which the general property tax was put, mention should be made of the county levies for various special purposes and the utilization of the general property tax in municipal finance. The county levies for special purposes were made then by the county commissioners. Usually, though not always, such levies were authorized by special acts of the legislature, which permitted the commissioners to order the collection of an additional rate for some particular object upon the property ordinarily taxable for county purposes. These objects were

<sup>63</sup>The penalties were:—

1812, Purchase price plus one hundred per cent.

1821, Purchase price plus fifty per cent, plus cost for advertising.

1823, Purchase price plus one hundred per cent.

1825, Purchase price plus fifty per cent.

1827, Purchase price plus one hundred per cent, plus interest and costs and interest on subsequent taxes. *L.* 1812, p. 20; *L.* 1820-21, p. 182 *et seq.*; *L.* 1823, p. 203 *et seq.*; *L.* 1824-5, p. 172 *et seq.*, and *R. L.* 1826-7, p. 325 *et seq.*

<sup>64</sup>*R. L.* 1826-7, p. 325 *et seq.*

<sup>65</sup>*R. L.* 1832-3, p. 528.

<sup>66</sup>*R. L.* 1828-9, p. 122.

always specified; they included schools, bridges, roads, county buildings, and the improvement of navigation of rivers. One of the most important of these special taxes was one authorized by a general law in 1825 which permitted the county commissioners in any county of the state to levy a general property tax for road purposes.<sup>67</sup>

Before 1825 no provision had been made for the building and maintenance of roads aside from a poll tax, payable in labor on the roads, and whatever the counties might care to undertake and pay for out of ordinary revenues. The state, indeed, occasionally made a small appropriation toward the expenses of laying out a new road.<sup>68</sup> But this new law provided a distinct revenue for road purposes. Power was given to the county commissioners of the various counties to levy a maximum rate of one dollar and fifty cents on every one hundred dollars' worth of taxable property. The counties were divided into road districts and supervisors were appointed for each district to see that the property owners discharged the tax in labor on the roads or commuted it by providing a substitute to do the work for them. This bill was in force only two years, being repealed by the legislature of 1826-27.<sup>69</sup> Governor Ford gives for the cause of the repeal of this law the hatred of the people for taxation.<sup>70</sup> The rate however was quite

<sup>67</sup>L. 1825, p. 27.

<sup>68</sup>Sums were expended from the state treasury for roads and bridges during this period as follows:—

	Roads	Bridges	Total
Jan. 1, 1823, to Nov. 30, 1824.....	\$3,556.66	.....	\$3,556.66
Two years ending Nov. 30, 1826.....	2,344.50	.....	2,344.50
Two years ending Nov. 30, 1828.....	3,228.56	\$ 880.00	4,108.56
Two years ending Dec. 1, 1830.....	1,700.00	1,100.00	2,800.00
Two years ending Dec. 1, 1832.....	97.62	1,048.50	1,146.12
Two years ending Dec. 1, 1834.....	2,296.64	300.00	2,596.00
Two years ending Nov. 30, 1836.....	.....	.....	.....
Dec. 3, 1836, to Dec. 1, 1838.....	780.00	.....	780.00

<sup>69</sup>L. 1827, p. 47; Ford, *Hist. of Ill.*, pp. 58-60. The poll (labor) tax was continued. Bridges were kept in repair from the county road tax. L. 1827, p. 62.

<sup>70</sup>*Supra.*, pp. 28, 29.

high and some of the opposition was probably warranted. In its operation the law seems to have been eminently successful. "The roads were never before nor since in such good repair..." is the testimony of Ford, a number of years afterward.<sup>71</sup>

After the repeal of the road law in 1827 no taxes of this sort were levied until 1831 when a much weaker law was passed which made property the basis for a charge in case a three-day labor requirement was not sufficient. The rate was one day's labor for every one hundred dollars worth of property. For commutation purposes a day's labor was to be reckoned at fifty cents.<sup>72</sup>

In 1835 a different arrangement was made. A tax could be levied for road purposes either on real estate or on personal property, but not on both the same year.<sup>73</sup> If on real estate, the tax, at the most, could be equal to one-half of the state tax collected in that county. If on personal property, the maximum rate was twenty-five cents on every one hundred dollars worth of property. The commutation rate was seventy-five cents per day, but by 1845 it had been raised to one dollar.<sup>74</sup>

The amount which could be collected for roads was limited in 1836<sup>75</sup> to one-third of the county receipts of the previous year.

In this same year, 1825, when the first road law was passed, there was also passed a school law which provided for the levy of a tax similar to the road tax. The rate was not to exceed one-half of one per cent. This law suffered the same fate as the road law, becoming unpopular with the people and being repealed in 1827. A voluntary tax was enacted in its place under which no person could be taxed without his consent in writing.<sup>76</sup>

<sup>71</sup>Ford, *op cit.*, p. 58.

<sup>72</sup>L. 1830-31, p. 159.

<sup>73</sup>L. 1835, p. 129.

<sup>74</sup>R. S., 1845, p. 485 *et seq.*

<sup>75</sup>L. 1835-6, p. 207.

<sup>76</sup>J. M. Peck, *A Gazetteer of Illinois in Three Parts* (2 ed., Philadelphia, 1837,) p. 66; L. 1827, p. 364.

A good example of the tax levied for bridge purposes is that of an act passed in 1831, "authorizing the County Commissioners' Court of Shelby County to levy a tax for certain purposes." It permitted the commissioners to levy a tax on land and personal property for the purpose of building a bridge over the Kaskaskia River. No limitation was put on the rate. The sheriff's collection fee was restricted to five per cent.<sup>77</sup> In 1824 the legislature authorized the commissioners of Sangamon County to collect a tax of not less than one-fourth nor more than one-half per cent on all the taxable property in the county for the purpose of improving the lower course of the Sangamon River. A referendum to the people was provided.<sup>78</sup> County buildings were some times paid for under this same arrangement. Thus, in 1825, the Gallatin County commissioners were required to lay a tax of one and one-half per cent upon the value of all property subject to county taxation, to build a court house and jail.<sup>79</sup> The court house of Crawford County was built with the proceeds of a tax of one per cent on the property of the taxable inhabitants.<sup>80</sup> Legislation, of which the acts quoted above are typical, was very common all through the period under discussion. At every session many such laws were passed and the county taxes collected under this arrangement must have made up a large proportion of the total county receipts.

Although throughout this early period the towns were small, the beginnings of municipal taxation are to be found in the legislation of these years. The powers of towns to act as public corporations came, for the most part, through special charters granted by the legislature. In 1831 a general incorporation law was also passed,<sup>81</sup> but it was merely permissive in character and most of the municipalities, continued even after its passage, to go to the legislature for special charters.

<sup>77</sup>L. 1830-31, p. 23.

<sup>78</sup>L. 1824-25, p. 28.

<sup>79</sup>L. 1824-25, p. 165.

<sup>80</sup>*Private L.* 1832-33, p. 28.

<sup>81</sup>L. 1830-31, p. 82.

It is to be expected that under such a system there should be the greatest diversity among the powers granted to various municipalities. In respect to the property subject to taxation, however, the practice was fairly uniform. During the early part of the period, it was not usual to designate specifically all property subject to taxation for municipal purposes; with but one exception, the charters granted during these early years specified that only the town lots lying within the corporate limits "without reference to the value of houses or other improvements" should be made the basis for the levy of taxes. The exception is the Mt. Carmel charter of 1825 which designated that the tax should be laid on both "the real property in such town and on personal property owned by persons living in such town."<sup>82</sup> Somewhat later in the period it became customary to declare "real estate" taxable, without further defining the term. In 1837 Chicago was granted a city charter which authorized the common council to levy a tax upon "real" or "personal estate." There are scattered examples of similar grants of power, as in 1835 (Mt. Carmel), and 1840 (Carmi).<sup>83</sup> During the same year charters were also granted to the city of Alton and the town of Ottawa, which finally designated that all property should be used as the basis for the levy.<sup>84</sup> Taxes were to be levied in the case of Ottawa, "upon all real estate and personal property," and in the case of Alton upon the "real and personal property within the limits of said city." About the same time a similar charter was given to Galena.<sup>85</sup>

The levy of a municipal tax usually exempted the property within the corporate limits from any county tax. So it would seem that, except in such scattered cases as those mentioned above, the general property tax, strictly defined, did not exist in the municipalities of Illinois during this

<sup>82</sup>*L.* 1824-25, p. 72.

<sup>83</sup>*L.* 1836-37, p. 50. Real estate was made taxable by the general law of 1831, by the Chicago charter of 1835 and the Lower Alton amendment of 1835. *L.* 1834-5, pp. 172, 210; *L.* 1839-40, p. 70.

<sup>84</sup>*L.* Sp. Sess. 1837, pp. 17, 96.

<sup>85</sup>*Incorp. L.*, 1836-37, p. 16.

early period. How this condition was reconciled with the provision of the state constitution requiring the general property tax is not evident; the question appears not to have been raised.

The maximum rates which were specified in these early charters varied from one-fourth of one per cent to four per cent, upon the value of the property designated for taxation. Most of the acts, and particularly those passed by the later legislature set the rate at one-half of one per cent.<sup>86</sup>

As in the case of the counties, power was sometimes granted to municipalities to levy rates for special purposes. Thus by a law of 1821, the trustees of the town of Alton were permitted to levy a tax on all town lots not exceeding seventy-five cents per lot per annum for the support of schools.<sup>87</sup> In 1837 Alton was again empowered to levy a school tax.<sup>88</sup> By this act the council was authorized to assess upon the real estate of the city the sums necessary to purchase lots and erect buildings, and to assess upon personal property a tax sufficient to raise the necessary sums for the support of the schools. The rate was not to exceed one-fourth of one per cent and the receipts were to constitute a fund to be used exclusively for the support of the common schools.<sup>89</sup>

A spirit of rivalry often rose between towns desiring to be designated as the county seat and to secure the lo-

<sup>86</sup>The following list of references to charters granted, grouped according to the tax rates specified, will give more specific information on this point:

One-fourth of one per cent—*L.* 1835-6, p. 180.

One-half of one per cent—*L.* 1823, p. 142; *L.* 1824-5, pp. 22, 75.

*L.* 1834-5, pp. 204, 214; *L.* 1836-7, p. 50; *L. Sp. Sess.* 1837, pp. 17, 102.

One per cent—*L.* 1819, p. 249; *L.* 1834-5, p. 210; *L. Sp. Sess.* 1837, pp. 31, 96.

One and one-half per cent—*L.* 1824-5, p. 72.

Two per cent—*L.* 1819, pp. 48, 259, 305; *L.* 1820-21, p. 160.

Three per cent—*L.* 1819, p. 368; *L.* 1820-21, p. 176.

Four per cent—*L. Sp. Sess.* 1837, p. 94 (Springfield).

<sup>87</sup>*L.* 1820-21, p. 39.

<sup>88</sup>*L. Sp. Sess.* 1837, p. 17.

<sup>89</sup>*Cf. L.* 1836-37, p. 50.

cation special inducements were frequently offered. Towns would sometimes submit to special taxation to raise money for donations to the counties. Thus in 1837, Beardstown was given power to collect a six per cent tax on all real estate in the town for the purpose of raising a sum of ten thousand dollars to secure the county seat of Cass County.<sup>90</sup>

The municipalities had other sources of revenue, such as those from special assessments and from licenses, but undoubtedly the major portion of their income was from the taxes authorized by acts like those referred to above. These taxes, although not strictly general property taxes, were for the most part similar to them in their nature; and even before the end of the period there were a few cases of what might in a strict sense, be called general property taxes.

#### *Summary.*

Thus the years between 1809 and 1838 formed a period of considerable legislative activity. The general system carried over from the Territory of Indiana had first to be adjusted to the more primitive conditions existing in the Territory of Illinois; and then, as the state grew, particular problems had to be met as they arose. The property subject to taxation changed very little, due, of course, to the fact that from the beginning practically all property was taxed and that the forms of property did not change materially during those years. Since the chief form of wealth was land, the land tax was the backbone of the revenue system. What little personal property was in the state was made subject to taxation, the local communities depending entirely upon the income from this class of property during the early years. The land tax was shared by the state with the local communities in varying proportions, after 1819 the local communities taking a larger and larger part until they finally were receiving two-thirds of the revenue from the general land tax.

Compared with those levied today, the rates during this period were very low, although at the end of the period

<sup>90</sup>L. Sp. Sess. 1837, p. 95.

they were considerably higher than they had been at the beginning. Had they been very high, such assessment methods as those used would probably have been impossible, in spite of the ease with which the predominating type of property loaned itself to assessment.

Frequent changes were made in the details of assessment and collection. It is true that the general scheme of valuing lands by grouping them roughly into classes according to quality persisted throughout this period; but the composition of the groups was changed a number of times. The assessments were made both with and without the aid of oath requirements. Part of the time very heavy penalties were prescribed for fraud in listing property for taxation; and, again, for a time there were no penalties at all in such cases. Changes were also frequently made in the regulation for redeeming property sold to enforce collection.

The condition of affairs as a whole during this period can best be described by saying that, although the principle of the general property tax was prescribed in the state constitution drawn up in 1818, the period was primarily one of experimentation. The system was adjusting itself; the details were not fixed; plans were being tried out and discarded. Much of the action was haphazard; it was mere groping. Fortunately the economic and fiscal conditions were such as to make possible this formative period; the experiments were not too expensive. Had the responsibilities and strains, which came a few years later, been laid upon the financial system at this time, without the opportunity for experimental legislation and for observation of the weak points of the system in vogue, the results could scarcely have been other than disastrous.

## CHAPTER IV.

### EFFICIENCY OF THE TAX SYSTEM

#### *Fiscal Results*

In the vault in the office of the state treasurer in the capitol at Springfield is carefully preserved a plain, wooden box, scarcely more than a foot long; this box is the receptacle in which the state funds were kept during the early years of the state's history. As it rests today, tucked away on one of the shelves in the massive vault which has succeeded it, an interesting contrast is presented of the importance of the financial affairs of the state at that time and at present. For the amounts involved in the early financial transactions were indeed trifling. Exact statistics, are, in some cases, hard to obtain. Thus the sums raised by taxation for local purposes are almost entirely wanting for the years before 1838;<sup>1</sup> and it is only after 1820 that complete statistics are available for the receipts from taxation for state purposes. However, some fragmentary information exists concerning the total revenues of the state from all sources for earlier years. For example, it is known that the total amount expended from the state treasury

<sup>1</sup>According to the reports of the state auditor and treasurer, the following amounts were transmitted to the counties as their share in the non-resident land tax. They were entitled to share in this tax by a law which was in force for two years, 1821 to 1823.

Jan. 1, 1823 to Nov. 30, 1824.....	\$ 808.12
Two years ending Nov. 30, 1826.....	1,617.96
Two years ending Nov. 30, 1828.....	358.13

From special reports made by the auditor at the request of the legislature in 1835, it appears that the revenue to the counties from the land tax in 1835 to \$26,451.49. (*S. J.*, 9 G. A., 2 Sess., p. 64.) An estimate of \$31,374.89 is made of the probable income of the counties from this source in 1836. These statistics do not include the taxes which may have been levied on personal property for county purposes.

during the six years that Illinois was organized as a territory of the second grade, December 31, 1812, to December 31, 1818, was approximately twenty thousand dollars, an amusingly small sum compared with present day budgets.<sup>2</sup> This figure represents fairly accurately the amount received by the territorial government from taxation. For the territory, it will be recalled, had no sources of revenue of any consequence aside from the tax and there was no money in the treasury at the end of the year 1818 when the report was made.

If the above estimate is correct for the territorial period, the amounts received from taxes in the late years of that period were very much larger than those received in the earlier years. For it is known, from a report made to the first territorial legislature, that during the one year, from December 1, 1817 to December 1, 1818, the territorial revenue from taxation amounted to \$9,528.05,<sup>3</sup> leaving only about \$10,500 to be raised during the other five years.<sup>4</sup>

The size of the budgets, however, began to increase sharply as soon as the territory was admitted to the Union in 1818. During the first two years as a state, money was

<sup>2</sup>A report to the House of Representatives in 1819 puts the figure at \$20,415.79. But the old revenue and warrant ledger in the vault of the state auditor at Springfield states that this amount was only \$19,982.36. Whatever may be the explanation of this discrepancy, the total amount was approximately twenty thousand dollars. *H. J.*, 1 G. A., 2 Sess., p. 30; Revenue and Warrant Ledger, Class 3, I, 32.

<sup>3</sup>*H. J.*, 1 G. A., 2 Sess., p. 30.

<sup>4</sup>Reynolds (*My Own Times*, p. 105) says that the taxes imposed from November 1, 1811 to November 8, 1814 amounted to \$4,875.47. "Of this sum," he says, "\$2,516.89 had been paid into the treasury and \$2,378.47 remained in the hands of the delinquent sheriffs to be paid over." The two items, added together, do not make the sum mentioned first.

Moses, (*Illinois*, I, 266) says that the total amount of revenue from November 1, 1812 to November 1, 1814 was \$4,875, of which \$2,516 was collected and \$2,359 remained uncollected in the hands of the sheriffs. Neither Reynolds nor Moses gives exact references to his sources. Moses's statement that the state treasurer received \$1,508 in 1817 and \$2,471 in 1818 is at variance both with the reports to the assembly and with the books of the state auditor.

paid out of the treasury to the amount of \$52,809.70.<sup>5</sup> There was also a cash balance left in the treasury, on January 1, 1821 of \$17,720.13. This would seem to indicate that for two years the entire receipts at the treasury, almost all of which probably came from taxation, were \$70,529.83.

After 1820 the regular reports of the state auditor give precise information concerning the receipts of the state treasury from all sources, including the various types of taxation. The receipts from the tax on property for the period are shown in Table 1:<sup>6</sup>

TABLE I. RECEIPTS INTO THE STATE TREASURY FROM THE TAX ON PROPERTY,  
1820-1838.

Jan. 1, 1821, to Dec. 27, 1822.....	\$45,803.75
Jan. 1, 1823, to Nov. 30, 1824.....	78,942.20
Two years ending Nov. 30, 1826.....	93,011.22
“ “ “ “ “ 1828.....	90,110.25
“ “ “ “ “ 1830.....	73,444.88
“ “ “ “ “ 1832.....	95,001.56
“ “ “ “ “ 1834.....	76,863.94
“ “ “ “ “ 1836.....	84,399.37
Dec. 3, 1836 to Nov. 30, 1838.....	92,365.20

These figures represent the state's share in the receipts from the tax on property. This revenue came almost entirely from the land tax, the only exception being in the first figure where a small part of the \$45,803.75 came from the tax on bank stock. All the tax on other personal property went to the counties. Moreover, during the early years, most of the money received by the state came from a tax on the land of non-resident proprietors; for not only was the larger share of the tax paying land owned by persons living outside the state, but after 1823 the counties retained two-thirds of the revenue from the land of residents, only the remaining one-third going to the state. The taxable land of non-residents consisted largely of claims

<sup>5</sup>Revenue and Warrant Ledger, Class 3, I, 32. This indicates that the statement of Moses, (I, 306) is inaccurate. He says that the receipts from October 18, 1818 to December 31, 1820 were \$53,362.22 and the expenditures \$35,655.00.

<sup>6</sup>Compiled from the reports of the auditor of public accounts.

in the military tract which had been bought up by speculators from the original grantees.<sup>7</sup> Congress had appropriated about three million acres of this land as bounties for military service. As Governor Coles pointed out in a letter to the governor of Maryland,<sup>8</sup> this policy had the effect of greatly increasing the non-resident list, for much government land was made taxable which otherwise would have remained exempt as property of the United States.<sup>9</sup> The temporary advantage coming in the way of increased revenues from this source was largely counterbalanced, however, by the fact that the settlement of that part of the state where the land was situated was somewhat retarded by this form of ownership.

The sums received at the state treasury from the non-resident tax and the percentage which they formed of the total receipts from the state tax on property are shown in Table 2:

TABLE 2. RECEIPTS INTO THE STATE TREASURY FROM THE TAX ON THE PROPERTY OF NON-RESIDENTS AND THE PERCENTAGE FORMED BY THEM OF THE TOTAL RECEIPTS FROM THE PROPERTY TAX, 1820-1838.

		Percentage
Jan. 1, 1821, to Dec. 22, 1822.....	\$38,437.75	83.9
Jan. 1, 1823, to Nov. 30, 1824.....	72,639.48	92.
Two years ending Nov. 30, 1826.....	82,569.54	88.8
“ “ “ “ “ 1828.....	83,176.28	92.3
“ “ “ “ “ 1830.....	70,396.16	95.8
“ “ “ “ “ 1832.....	88,218.32	92.9
“ “ “ “ “ 1834.....	42,208.41	55.
“ “ “ “ “ 1836.....	8,172.67	9.7
Dec. 3, 1836, to Nov. 30, 1838.....	13,484.69	14.6

The most striking condition revealed in this statement is the rapid fall in the non-resident receipts after 1832. Aside from the steady transfer of the ownership of land from non-residents to residents, another cause may be responsible for this, namely, the hard times of the thirties, which undoubtedly bore heavily on many persons holding

<sup>7</sup>Ford, *Hist. of Ill.* p. 48.

<sup>8</sup>*Ill. Hist. Coll.*, IV, 45 *et seq.*

<sup>9</sup>For conditions under which bounty lands became taxable, see *supra*, p. 30.

land as a speculation, causing them to lapse in their taxes. The item in the auditor's report called receipts from "revenue clerks" shows a large increase as the receipts from non-residents diminish. These "revenue clerks" were the clerks of the county commissioners, to whom in 1833 was assigned the task of selling the land of delinquent non-residents. It is probable that most of the receipts from "revenue clerks" were sums realized from sales for non-payment of taxes. It may be, however, that by some administrative order, unsanctioned by formal legislative action, the county clerks were made receivers of state taxes on non-residents' lands. The sums received by the state treasurer from the revenue clerks during this period were:

Two years ending Nov. 30, 1834.....	\$13,158.72
" " " " " 1836.....	45,748.63
From Dec. 3, 1836, to Nov. 30, 1838.....	70,015.70

Table 3 shows the ordinary income of the state by two year periods and the percentage of these sums which came from the property tax.<sup>10</sup>

TABLE 3. TOTAL ORDINARY RECEIPTS INTO THE STATE TREASURY AND THE PERCENTAGE FORMED BY THE RECEIPTS FROM THE PROPERTY TAX, 1820-1838.

		Percentage
Jan. 1, 1821, to Dec. 22, 1822.....	\$62,226.70	73.6
Jan. 1, 1823, to Nov. 30, 1824.....	86,586.93	91.2
Two years ending Nov. 30, 1826.....	93,880.07	99.1
" " " " " 1828.....	96,106.94	93.8
" " " " " 1830.....	87,145.08	84.3
" " " " " 1832.....	106,498.09	89.2
" " " " " 1834.....	103,534.28	74.3
" " " " " 1836.....	110,310.62	76.5
Dec. 3, 1836, to Nov. 30, 1838.....	158,086.78	58.4

In order to show with what degree of adequacy the revenue from taxation met the needs of the state, it may

<sup>10</sup>The figures in this table do not include the items of "State paper funded and interest on the same," which were receipts into the treasury of securities taken up by sums secured chiefly from the "Wiggins Loan," (*Cf. supra*, p. 33.) These amounts were, 1830-32, \$105,987; 1832-34, \$3,790; 1834-36, \$217. Moreover, the figures do not include receipts from loans. The decreasing percentage finds at least a partial explanation in the increased receipts from the school funds.

be of value to examine the general condition of the state treasury during these years. Owing to the carelessness with which the accounts were kept, it is not possible to give a perfectly balanced account of the state finances; not only are there gaps between the reports, but there are also gross inaccuracies in the record of warrants drawn on the treasury, as a result of which the statements of outstanding warrants given in the reports are seldom trustworthy. Table 4 presents the receipts and expenditures together with the balances, as nearly as can be ascertained, against or in favor of the treasury, at the end of each biennium during the period.

TABLE 4. TOTAL RECEIPTS AND EXPENDITURES OF THE STATE TREASURY,  
1818-1838

	Receipts	Expenditures	Balance
Period ending Oct. 1, 1818.....	.....	.....	\$-7,588.00
Period ending Jan. 1, 1821.....	.....	.....	17,720.13
Jan. 1, 1821, to Dec. 27, 1822.....	62,226.70	\$ 47,145.29	32,801.54 <i>d</i>
Jan. 1, 1823, to Nov. 30, 1824.....	86,586.93	90,793.73	29,454.31
Two years ending Nov. 30, 1826....	93,880.07 <i>b</i>	156,259.42	-34,015.62
“ “ “ “ “ 1828....	96,106.94 <i>b</i>	108,090.96	-45,999.64
“ “ “ Dec. 1, 1830....	109,132.26 <i>b</i>	70,528.48	- 7,395.86
“ “ “ “ “ 1832....	312,885.07 <i>c</i>	329,762.14 <i>d</i>	-24,272.93
“ “ “ “ “ 1834....	141,627.33	148,083.14	-30,728.74
“ “ “ Nov. 30, 1836....	248,624.75	163,016.50	54,879.51
Dec. 3, 1836, to Dec. 1, 1838.....	780,055.92 <i>e</i>	824,564.88	20,233.77

(a) Each succeeding treasurer and auditor during these early years seems to have assumed the right to make his own estimate of the amounts outstanding against the treasury. The figures in the "balance" column must be used with this in mind. The discrepancies of 1824 and 1836 find their explanation in this fact. A gap between reports is responsible for the discrepancy of 1822. The figures for 1820-1822 do not include the receipt of \$5,955.82 from the United States treasury or the expenditure of \$150.94, the cost of transferring the sum.

(b) Not including redemption fund.

(c) Includes \$100,000 from the "Wiggins Loan" and \$105,986.98 in discharged state paper.

(d) Includes \$215,968.66 in state paper redeemed and burned.

(e) Includes \$144,049.96 borrowed from School Fund, but does not include the \$335,592.32 appropriated to the School Fund and then borrowed from it. It does include the item of \$477,919.14, surplus revenue, received from the United States government.

Just as the territory was about to become a state, October 1, 1818, the auditor reported an unpaid balance of \$7,588, showing that territorial revenues had not quite sufficed to pay expenses.<sup>11</sup> The revenues for the following two years proved ample not only to meet this deficit and the current expenses of those two years, but also to leave a favorable balance of \$17,720.13. For the next four years the finances of the state remained in very comfortable condition. In 1825 and 1826, however, the harmful effects of the state bank began to make themselves felt. Yet had there been no depreciation in the bank notes, there would have been no deficit; for the sums received were nominally much in excess of the expenses. Governor Coles, in his farewell message, said: "The annual revenue derived from a tax on land amounts to upwards of \$45,000, while the average annual expenditure of the state, on the supposition that there will be no extra session of the legislature, will not exceed \$23,000 in specie."<sup>12</sup>

He went so far as to recommend a twenty-five per cent reduction in the taxes levied

under the firm conviction that three-fourths of our present nominal revenue will be amply sufficient to defray the ordinary expenses of government and leave an excess to be annually increasing as well from the additional quantity of lands subject to taxation as the appreciation of the currency, to be applied to the great and vital objects of education and internal improvements.<sup>13</sup>

However, the 1826 deficit of \$34,015.62 increased to \$45,999.64 by 1828. At the end of the next two year period, 1830, it had dropped to \$7,395.86 but at this time, provision being made for the redemption of the notes of the state bank, the treasury was really well along toward recovery.<sup>14</sup> From 1834 until the very end of the period, the treasury was not embarrassed. In 1834, according to Governor Ford, "The treasury of the state for once had become sol-

<sup>11</sup>*H. J.*, 1 G. A., 1 Sess., p. 35.

<sup>12</sup>*S. J.*, 5 G. A., 1 Sess., p. 24.

<sup>13</sup>*Ibid.*, p. 25.

<sup>14</sup>"The finances of the state are fast emerging from that deranged and depressed condition into which they had fallen a few years since, and are now assuming a sound and substantial character." Governor's Message, December 4, 1832, *S. J.*, 8 G. A., 1 Sess., p. 12.

vent, paying all demands in cash.”<sup>15</sup> Governor Duncan in his message of 1836 wrote: “The public revenue of the state is believed to be ample for all the ordinary expenses of government.”<sup>16</sup> However, the treasurer’s balance sheet during the later years of this period was made to appear to much better advantage through a somewhat questionable method by which the money received from the United States for schools was turned into the General Revenue Fund for general expenses. Instead of levying taxes to secure revenue to meet appropriations, the legislators, afraid, as some have charged, of the wrath of their constituents, voted to use for ordinary expenses the money in the School Fund, obtained from the sale of school lands and other sources. This arrangement was technically designated a loan and interest on the sum borrowed was regularly appropriated for the use of the schools of the state. But the principal was never repaid and the appropriations for schools, always larger than the interest on the sum, have gradually swallowed it up. In his message to the legislature in 1838 Governor Duncan states that the debt to the School Fund amounted at that time to \$719,784.61.<sup>17</sup> This included an item of \$335,592.32 which was part of the surplus revenue received from the United States government, appropriated to the School Fund and then borrowed to purchase bank stock. Had it not been for this extra source of revenue the receipts into the treasury at this particular time would have been altogether inadequate.<sup>18</sup>

“Here we have now *no* taxes, excepting those which are raised on the principle of our country rates, and they are scarcely perceptible,” gleefully writes Morris Birkbeck in 1818 to his friends left behind in England.<sup>19</sup> But not many of Birkbeck’s Illinois neighbors had his memories of heavy English taxes to compare with the rates which they

<sup>15</sup>Ford, *op. cit.*, p. 169.

<sup>16</sup>S. J., 10 G. A., 1 Sess., p. 20.

<sup>17</sup>S. J., 11 G. A., 1 Sess., p. 13; Peck, *Gazetteer*, p. 65.

<sup>18</sup>S. J., 11 G. A., 1 Sess., p. 13.

<sup>19</sup>*Letters from Illinois* (London, 1818), p. 41.

were called upon to pay. They compared them quite naturally with the rates imposed in the states surrounding them; and on this basis, at least after the admission of the territory into the Union, they found cause for bitter complaint in rates of taxation in Illinois. The situation was so complicated by the currency disorders that the true state of affairs is difficult to discern. In 1826, Governor Coles observed: "The rate of taxation is nominally higher in Illinois than in the neighboring states, and if continued will operate injuriously to the prosperity of the state." As the currency rose in value he considered it proper that the taxes should be lowered.<sup>20</sup> Nothing was done toward lowering them. Again in 1829 Governor Edwards mentioned the oppressive rates of taxation, pointing out that the people of the state were "already taxed to an extent unparralled (*sic*) in any western state, and precisely eight times as high as their brethren of an adjoining one (Kentucky)."<sup>21</sup> The non-resident proprietors of lands seemed to feel that the rates were very heavy,<sup>22</sup> and Governor Reynolds in 1831 and 1832 urged a reduction of the tax rate on the ground that it was "excessively high" and oppressive to the people."<sup>23</sup>

The sale of property for taxes is good evidence of the oppressiveness of the burden; and the facts at hand seem to show that an unusually large portion of taxable property was sold under the sheriff's hammer during the later part of this period. If the sums credited to "revenue clerks" in the auditors' reports represent receipts from tax sales,

<sup>20</sup>S. J., 5 G. A., 1 Sess., p. 24.

<sup>21</sup>*Ill. Hist. Coll.*, IV, 148; Governor's Message, S. J., 6 G. A., 1 Sess., n. p.

<sup>22</sup>Governor Coles requested James Mason to inquire of some of the non-resident landholders of New York City concerning their willingness to lend financial support to the Illinois and Michigan Canal project. Writing to Gov. Coles in 1826 concerning his conference, Mr. Mason said: "I also had a conference with Mr. Benior and Mr. Munn who are two of the largest holders of military bounty lands in the city, but their reply was that they were very anxious to have a canal made but that they could not do more at present than to pay the high taxes we had imposed on their land." *Ill. Hist. Coll.*, IV, 107.

<sup>23</sup>S. J., 7 G. A., 1 Sess., p. 62.

these sales were indeed very large.<sup>24</sup> Peck testified concerning the military bounty lands, that "many thousand quarter sections" were "sold by the state for taxes and are past redemption."<sup>25</sup> It was reported in *Niles Register* that as many as seven thousand tracts of these bounty lands were advertised for sale for taxes at one time.<sup>26</sup> But high as the rates seem to have been, compared with those of states in a like economic condition, and oppressive as they were considered both by the settlers and the non-resident landowners, efforts to reduce the rates were uniformly unsuccessful.<sup>27</sup>

If one were to generalize concerning the success of the tax system during these years from a fiscal point of view he would necessarily conclude that it accomplished measurably well the task which was assigned to it. The deficit left from the territorial period was not large and until the complications due to the banking disaster arose, the condition of the treasury remained satisfactory. It must be kept in mind that the tax system was in no way responsible for the state bank. A severe test of the efficiency of the system was averted during the thirties by the practice of borrowing from the school funds, the aid from these sources averting the necessity for heavier taxation. The rates, at least after 1820, seem to have been higher than those in neighboring states; but it is difficult to determine exactly how just were the complaints so generally made.

#### *Administrative Results.*

The success from an administrative point of view is a different story. The task of assessing and collecting the tax was not an easy one. In the first place the frontier conditions which prevailed were themselves sources of many difficulties. The poor means of transportation meant numberless delays in transmitting money to the state treas-

<sup>24</sup>*Cf. supra*, p. 63.

<sup>25</sup>Peck, *op. cit.*, p. 81.

<sup>26</sup>*Niles Register*, XXIX, 165, Nov. 12, 1825.

<sup>27</sup>*Cf. supra*, p. 67.

ury.<sup>28</sup> The frequent changes in county lines due to the sub-division of large counties into smaller ones were prolific causes of misunderstanding as to the duty of tax officials.<sup>29</sup> But perhaps nothing was so productive of administrative difficulties as the disordered condition of the currency. Money was always either scarce or bad. As Governor Edwards pointed out in his message of 1826, "In nothing can the want of an adequate circulating medium be more inconveniently felt than in the payment of taxes."<sup>30</sup> Even the session laws contain evidence of the troubles due to this cause.<sup>31</sup> After the establishment of the state bank in 1821, its notes were receivable at the state treasury for taxes.<sup>32</sup> The inequality in the value of the various kinds of money in circulation, combined with the fact that many unpaid auditor's warrants were in existence during almost the entire period, presented an opportunity to sheriffs to manipulate their collections so as to turn them into the treasury in the cheapest acceptable form. Sheriffs took advantage of this situation to such an extent that laws forbidding the practice were<sup>33</sup> passed. The frequency with which laws were changed and the carelessness with which they were drawn formed further obstacles to efficient administra-

<sup>28</sup>*Cf. L. 1819, p. 239.*

<sup>29</sup>*Cf. L. 1824-25, p. 85.*

<sup>30</sup>*S. J., 5 G. A., 1 Sess., p. 47.*

<sup>31</sup>For example, in 1819 (*L. 1819, p. 300*) the sheriff of Union County was relieved of the penalty for delay in paying in his taxes, owing to the fact, as he explained, that the description of money required was "scarce and very difficult to procure." At this time the taxes had to be paid in money which was receivable at the United States land offices in payment of government land. Bank notes in circulation varied so widely in short periods that they sometimes caused trouble to collectors; those good one month were often bad the next. Thus relief was given to a sheriff in 1819 (*L. 1819, p. 235*) because, although he had collected the taxes in lawful money, he found that by the time he came to turn over his taxes some of the bank notes were no longer receivable at the government land offices, and were therefore refused by the state treasurer.

<sup>32</sup>*L. 1823, p. 208; L. 1827, p. 335.*

<sup>33</sup>*S. J., 5 G. A., 1 Sess., pp. 25, 74; R. L. 1826-27, p. 325 et seq.*



tion.<sup>34</sup> Officials were often uncertain as to exactly what laws were in force.<sup>35</sup>

From the evidence available, it would seem that the state and local officials whose duty it was to administer the tax system were remarkable neither for their ability nor for their character. During these years two state treasurers were found to be short in their accounts, Treasurer Field having defaulted, according to a report dated Nov. 30, 1828, to the amount of \$19,491.70, and Treasurer Hall, on December 1, 1832, for \$4,503.72. Subsequently \$5,500.06 was received from Field and his securities and \$2,922.16 from the estate of Hall in part payment of their shortages.<sup>36</sup>

From the following quotation Governor Edwards seems to have entertained no flattering opinion of the efficiency with which the revenue system was administered:<sup>37</sup>

From the complexity of our revenue system, and the confusion that reigns in the accounting department, it is not thought possible, by any lights which the accounts of the latter will afford, to ascertain the amount of those (taxes) that were demandable, even, for the past year: Since, without any effort to discover the extent of that confusion, it has become notorious, throughout the state, that, while many persons have been charged in the Auditor's books for lands, that did not belong to them; and our own citizens with taxes, which either had been previously paid, or were payable to Sheriffs' or County Collectors, other tracts of land owing taxes have neither been charged by him, nor included in the lists he was required to transmit to the several counties in which the taxes on them were collectable.

<sup>34</sup>Ford, *op. cit.*, p. 32.

<sup>35</sup>In 1817, in several of the counties no tax was collected because of difficulties which arose over unclear changes in the law. *L.* 1817-18, pp. 51-52. In 1821 it was discovered that no provision had been made in the revenue law for the compensation of the sheriffs for collecting the taxes in 1819 and 1820. But this legislature contended itself with simply voting the sheriffs their compensation (*L.* 1820-21, pp. 4-6), and failed to remedy the matter permanently by changing the revenue law. As a result it was found presently that no compensation had been allowed for the sheriffs in 1821-22 and further action was necessary. (*L.* 1823, p. 80).

<sup>36</sup>Reports of auditor and treasurer; *Pr. L.* 1832-33, p. 123. Moreover, the governors' letter-books show that Gov. Edwards appeared to have considerable difficulty with the auditor in securing reports from him in regard to the affairs of his office. *Ill. Hist. Coll.* IV, p. 118 *et seq.*

<sup>37</sup>*S. J.*, 5 G. A., 1 Sess., p. 49.

Moreover, from the same message of Governor Edwards,<sup>38</sup> it is evident that some of the state officials had been using their positions to benefit from the sales of land for taxes.

Evidences of corruption and inefficiency among local officials are even more manifest in the records than is the case with state officials. Early experience with county sheriffs led to the inclusion in the state constitution of the following clause: "No sheriff, nor collector of public moneys, shall be eligible to any office in the state, until they have paid over according to law, all moneys which they may have collected by virtue of their respective offices."<sup>39</sup> Records of several instances where sheriffs ran away with public money were found in the course of an examination of the session laws.<sup>40</sup>

Governor Ford gives a description of some of the practices of these early sheriffs which is very illuminating to one who seeks a view of the administrative conditions of the period:

During all this time, from 1818 to 1830, a very large number of sheriffs elected by the people were defaulters to the State or to counties for taxes, or to individuals for money collected on execution. The practice was to take the moneys collected on execution and with them to pay up for taxes, for without getting certificates of all moneys charged to them for taxes, the sheriffs were not allowed to be commissioned when re-elected. The people generally felt but little interest in the collection of moneys for debt, and paying it over, so that a defalcation here was not apt to injure the popularity of an officer, who would tend [probably lend] the people money to pay their taxes, and who was compelled by his official duty to be constantly around among them, giving him ample opportunity to make friends, contradict charges, and thus secure his election.<sup>41</sup>

<sup>38</sup>*Ibid.* p. 74.

<sup>39</sup>*R. L.* 1833, p. 47. *Cf. L.* 1819, p. 109 and *R. L.* 1826-27, p. 374. The letters of the governors show that a provision of this sort was needed and that an earnest attempt was made to enforce it. *Ill. Hist. Coll.*, IV., p. 15.

<sup>40</sup>Those who had acted as securities for the sheriff of Gallatin County in 1824-25 were forced to make good short-comings of that official. *Pr. L.* 1832-33, p. 120. A law passed in 1821 makes it evident that the sheriff of Jefferson County had absconded (*L.* 1820-21, p. 29), the act making provision for the election of his successor.

<sup>41</sup>Ford, *op. cit.*, p. 82. A law passed in 1827, (*R. L.* 1826-27, p. 372), contains a provision which permits those who have advanced money for

In view of all these difficulties it is not surprising that the administrative machinery should run with a great deal of friction. The session laws of every legislature are full of evidence that such was the case. Taxes were not collected on time; tax officials were not appointed at the times required by law; assessments were made too early or too late. Indeed, the machinery seems to have been stalled at one time or another in about every place where trouble could have occurred.

Even as early as 1809, when Illinois was first organized as a territory, there were already irregularities in the tax collections. It appears from a law passed in that year that the former sheriff of Randolph County had "neglected to collect all the county levies."<sup>42</sup> He was given six months to collect what was due him. In this same year it was necessary to allow extra time for assessment purposes in Randolph County.<sup>43</sup>

Striking evidence of the inefficiency of the administration is furnished by the high percentage of the taxes which were never collected. The extracts from Moses and Reynolds, quoted in the note on page 60, agree that almost half of the taxes due were not collected in the early years of the territorial period. In 1813, in two counties, the assessors were not appointed until after the time when the returns of the assessment lists should have been made. In one county no assessors were appointed at all, and in another county, for no assigned reason, the assessment was not made.<sup>44</sup> Laws passed in 1816 extended the time for the collection of the taxes in two counties, because of tardiness on the part of the assessors in preparing the tax list, and the time was extended in one county because the tax list had been refused by the commissioner's court on the ground that it had been made out prior to the time specified by any tax payer to make collections after the expiration of their terms of office. Thus at least part of the practice which Ford describes was recognized by the legislature.

<sup>42</sup>*L. Terr. Ill.*, p. 5.

<sup>43</sup>*Ibid.*, p. 11.

<sup>44</sup>Act Approved Dec. 1, 1813. Manuscript in office of secretary of state.

law.<sup>45</sup> In 1819 it developed that in one county no taxes had been collected for the preceding three years.<sup>46</sup> In another county the taxes for 1818 remained uncollected<sup>47</sup>, on account of the neglect of the county court to levy the taxes in accordance with the provisions of the law.<sup>48</sup> In 1821, in 1823, and indeed at practically every session thereafter, it was necessary to pass acts extending the time limit for paying over the taxes.<sup>49</sup> As late as 1835 the taxes for 1833 had not been collected in Fulton county, and those for 1829 had not been collected in St. Clair county.<sup>50</sup> Irregularities in assessment are also apparent from numerous laws.<sup>51</sup>

Thus it appears that it was in spite of crudely drawn statutes and loose administrative methods that the general property tax in Illinois reached the degree of financial success which it attained. The chief explanation of its measure of success is to be found in the simplicity of the economic situation. Practically all the property worth taxing was tangible, and unconcealable. Part of the explanation is doubtless the lightness of the tax; for in spite of the complaints of contemporaries the rates were quite low, compared with present-day standards. Certainly the examination of this early period reveals little that would be of comfort to those who feel that the general property tax was until very recently an unqualified success. Even when the great modern problem of intangible property was not present to complicate the situation, the early history of Illinois furnishes no picture of a general property tax operating efficiently and economically. Even under simple conditions, the tax system was far from ideal.

<sup>45</sup>*L.* 1815-16, pp. 21, 30.

<sup>46</sup>*L.* 1819, pp. 168, 266.

<sup>47</sup>*Ibid.*, p. 164.

<sup>48</sup>*S. J.*, 1 G. A., 2 Sess., p. 25.

<sup>49</sup>*L.* 1820-21, p. 19; *L.* 1824-25, p. 172; *L.* 1826, p. 58; *R. L.* 1826-27, p. 338; *L.* 1834-35, p. 72; *L.* 1836-37, p. 323.

<sup>50</sup>*L.* 1834-35, pp. 38, 60.

<sup>51</sup>*L.* 1824-25, p. 80; *R. L.* 1826-27, p. 338.

## C. THE DEBT-PAYMENT PERIOD, 1839-1872.

### CHAPTER V

#### TAXATION FOR DEBT PAYMENT, 1839-1848

##### *The State Debt and the Tax Problem.*

The key to the development of taxation in Illinois during the middle decades of the century is the state debt. The story of the creation of this debt and of the struggle of the state to rid itself of it is as interesting as it is important. During the late thirties, the years of debt formation, the course of events moved with startling rapidity. A commonwealth which in 1835 was young and poor but nevertheless respectable, suddenly developed an imagination, a daring and a recklessness in spending borrowed money which in a few years worked its almost complete ruin. In 1842, Illinois was a discredited state. Every project which she had undertaken had gone to pieces. An enormous load of interest-bearing indebtedness remained as almost the sole evidence of the millions she had squandered.

The action during the years following does not move so rapidly; they were the years of debt payment—years when every dollar which came to the state treasury found not one but a thousand claims crying for settlement. The young state had lived beyond her means; her debts greatly exceeded her assets. It was a serious question whether even at a more mature age she would develop enough economic strength to pay her obligations; some thought not. How far her growing strength might be levied upon by taxation was the vital question which had to be answered. During the trying years of the forties the solution was

worked out. The burden which appeared overwhelming to the state at twenty-three years of age seemed not unreasonable during the late fifties and became a mere trifle toward the end of the period.

The financial troubles of Illinois were due to banking and internal improvement schemes. The actual loss due to the banking ventures was inconsiderable compared with that attributable to internal improvements. This was not because the banking investment was a wise one, but rather because the state was fortunate in the settlement with the banks. Of the internal improvement schemes, the Illinois and Michigan Canal, although a great financial problem for a time, finally worked out its own salvation. Thus the great "Scheme of Internal Improvements" must be held responsible for the bulk of the debt.

Because of the incompleteness of the records and other reasons, the estimates of the state debt given in various places vary to an astonishing degree. In the following statement an attempt is made to summarize the verifiable facts as to the extent of the indebtedness in the early forties before the resumption of interest payments.<sup>1</sup>

(1) The banking liabilities of the state before the settlement were (a) \$2,665,000 in state bonds issued to the bank for stock, some of which were sold on the market and some not; (b) \$335,592.32, borrowed from the School Fund and paid on bank stock; (c) losses through depreciated bank paper received for taxes after the banks had suspended specie payments—losses which cannot be accurately estimated; and (d) a possible claim for \$100,000 paid for state bank stock, depending on the source from which the money came. A minimum estimate would be \$2,665,000, not considering the money borrowed from the School Fund a debt and disregarding all paper money losses. A maxi-

<sup>1</sup>Lack of space makes it impossible to give in this place a full statement of the creation of the state debt and of the basis on which the estimate given here is based. If present plans carry, the data will be published soon in separate form.

num which would cover all possible liabilities on account of the banks would be \$3,300,000.

(2) The canal liabilities were (a) bonded indebtedness estimated in reports when the trustees took charge at \$5,383,000, including the Wright and Company bonds and therefore rightfully subject to a reduction of \$722,000; (b) miscellaneous indebtedness, including scrip, orders on the commissioners etc., to the amount of \$1,084,449; (c) interest charges amounting to about a half-million dollars in 1842; (d) claims for damages to the extent of at least \$230,000; and (e) a share of the bonds lost through hypothecation for interest prior to January 1, 1842, either \$150,000 or \$400,000, according as the sum actually lost or that of outstanding securities is taken as the basis of estimate. Therefore \$6,625,449 would be a very conservative estimate and \$8,000,000 a liberal one.

(3) The liabilities on account of the General System of Internal Improvements consisted of (a) the bonded debt, \$5,085,444 in 1842, but properly subject to a million dollar reduction because of the Wright and Company bonds; (b) scrip issued in 1840 and 1841, \$1,424,585;<sup>2</sup> (c) interest due January 1, 1842, approximately \$250,000; (d) a share of the bonds hypothecated for interest (see 2 e above), \$150,000 to \$400,000. A minimum of about \$5,909,829 is thus arrived at; \$7,500,000 may be taken as a maximum.

(4) The bonds issued to build the state house amounted to \$128,000.

(5) Unpaid auditor's warrants and overdrafts on December 1, 1842, amounted to \$272,094.43.

(6) As a part of a maximum estimate of the state's liability the \$477,919.14 surplus revenue received from the federal government might be included.

(7) The borrowings from the school funds might, likewise, be included in the maximum. In 1842 these amounted to \$808,084.18.

<sup>2</sup>*Reports*, 22 General Assembly, 1861, p. 414.

The estimates then stand as shown in Table 5.

TABLE 5.  
ESTIMATES OF THE STATE DEBT AT THE TIME OF THE SUSPENSION  
OF SPECIE PAYMENTS.

	Minimum.	Maximum.
(1) Banks .....	\$2,665,000	\$3,300,000
(2) Canal .....	6,625,000	8,000,000
(3) Internal Improvements.....	5,909,829	7,500,000
(4) State House.....	128,000	128,000
(5) Unpaid Warrants and Overdrafts	272,094	272,094
(6) Surplus Revenue.....		477,919
(7) School Funds.....		808,084
Totals .....	\$15,599,923	\$20,486,097

Thus the state debt was somewhere between fifteen and a half and twenty and a half millions; in the opinion of the writer, probably nearer the second than the first figure.

The magnitude of the financial problem of Illinois in the early forties is difficult to comprehend. It is only when one reads the contemporary documents—the reports of the state officials, the messages of the governors, the reports of the legislative committees and the frantic press letters of the citizens and investors—that the gravity of the situation is understood. A considerable part of the total liability of the state was cancelled by means of favorable settlements with the banks and with the canal interests. A few additional assets of varying degrees of worthlessness were available; but after the fluster was over and the dust had settled, the people had to face the necessity of raising large sums of money year after year by disagreeable methods of taxation.<sup>3</sup> The means by which the state

<sup>3</sup>Such resources included "two mill seats on the Wabash River; fifty-five miles of finished railroad; various commencements of other railroads; railroad iron;" lands acquired in connection with the internal improvement enterprises (42,291.65 acres); lands selected under the act of Congress of September 4, 1841 (209,060.05 acres); and sums of money due the state (\$730,500). *Senate Journal*, 13 G. A., 1 Sess., pp. 12, 37; *Auditor's Report*, 1850, p. 20. The fifty-five miles of railroad referred to extended from Springfield to the Illinois River, and had cost about

taxed itself back to financial respectability are now to be reviewed.

It will be recalled that the primitive form of the general property tax persisted until the late thirties, land being valued by classification into rough groups,<sup>4</sup> and the state sharing the proceeds with the counties. Under the arrangement in force in 1838, the state received all the taxes on the land belonging to non-residents. It will also be remembered that, during the late years of the early period, the solvency of the treasury was preserved by generous borrowings from trust funds. Under the system in force the state's share in the tax revenues grew proportionately smaller, for the land was passing more and more into the hands of residents; and yet the need for revenue was rapidly increasing. The School Fund could not continue indefinitely to play the rôle of the fairy godmother and the necessity presented itself of reforming the tax system so as to bring more revenue into the state treasury.<sup>5</sup>

#### *Tax Law of 1839.*

The tax system established in 1839 was in force when the exaggerated financial plans of the legislators tumbled down about their ears in the early forties. It must be remembered that it was not planned to meet extraordinary demands for revenue. At most it was to provide for current expenses. The internal improvement schemes and the banks were expected not only to take care of themselves but also to bring in a profit which would perhaps make taxation entirely unnecessary. Instead of this happy result, the tax system had to be relied upon during this period to bear the entire burden. Revamped somewhat it was called upon to meet the ordinary expenses of a rapidly developing commonwealth, and, in addition, to pay off a staggering debt.

one million dollars. In 1846 the governor recommended that it be offered for what the iron would bring. *Senate Reports*, 15 G. A., 1 Sess., p 133; Ford, *History of Illinois*, p. 189.

<sup>4</sup>*Supra*, pp. 41, 43.

<sup>5</sup>*S. J.*, 11 G. A., 1 Sess., p. 13.

The state auditor seems to have been the first official to point out that the land was getting into the hands of residents and that a change in the law was therefore necessary. "The period has arrived," he declared in December, 1838, "when an amendment to our revenue laws can be no longer postponed."<sup>6</sup> The governor in his message suggested a change in the rates, which he thought need not be great since the amount of taxable land was "rapidly increasing."<sup>7</sup> But, contended the auditor, the decrease of revenue from the non-resident tax would "counterbalance any accession" from lands becoming taxable for the first time.

However, the law which was passed in February, 1839, went far beyond a mere change in the rates. It swept away entirely the old system of rough classification as a means of valuing lands for taxation and specified that both land and personal property should "be valued according to the true value thereof." It broadened the definition of taxable property and narrowed the exemptions. It abandoned all distinctions between property taxable for local purposes and property taxable for state purposes, making the state and county rates apply to the same base. Specifically, the law declares that

all lands, tenements, and hereditaments, situated in this state, claimed by individuals, or bodies politic or corporate, except such lands as may be owned by societies, or corporations for the purpose of burying ground, church grounds, and grounds for the use of literary institutions, not to exceed ten acres, whether by deed, entry, patent, grant, bond for conveyance, or otherwise, except lands belonging to the United States, or this state, and such other lands as are exempted from taxation by the terms of the compact between this state and the United States, are hereby declared subject to taxation; also the following personal property, *viz*: stud horses, asses, jinnies, mules, horses, mares, cattle, slaves, and servants of color, clocks, watches, carriages, wagons, carts, money actually loaned, stock in trade, and all other description of personal property, of the stock of incorporated companies; and so that every person shall pay a tax in proportion to the value of the property he or she has in his or her possession, the aforesaid property declared subject to taxation shall be valued according to the true value thereof, as hereinafter directed.<sup>8</sup>

<sup>6</sup>S. J., 11 G. A., 1 Sess., p. 52.

<sup>7</sup>*Ibid.*, p. 13.

<sup>8</sup>L. 1838-39, p. 3 *et seq.*

It scarcely needs to be pointed out that in this law is found, at last, almost the purest type of the general property tax. It may be objected that instead of stating baldly that all property should be subject to taxation, the law specifies particular articles. But it will be noticed that included in the list of taxable articles is a comprehensive item taxing "all other description of personal property." Certainly this law makes something of a shift in the point of view; the tax is less a tax "on the thing" and more a tax "on the person."

One of the new items specified in the list of taxable property is that of "money actually loaned," the first instance of the taxation of credits in Illinois. No arrangement is supplied for deducting debts.

By making a departure from the older system of designating certain types of property as taxable for state purposes and certain other types for local purposes, an element of elasticity was introduced into the situation. Now the state could increase or decrease its revenue by the simple process of varying a single rate which would be extended on all property. Before, it was necessary to effect a general readjustment between local and state rates, or to redistribute taxable property between the localities and the state. The state rate was fixed in 1839 at twenty cents on each one hundred dollars of taxable property. For counties a maximum of fifty cents (one-half of one per cent) was established.

The change instituted in the basis of assessment by this same law makes very difficult any comparison of the new rates with those in force before. This much of a comparison is possible, however. Assuming that the land rated first class under the old arrangement had a fair cash value of four dollars per acre—the sum set in the early law to be the value of such first class land—the taxes under the old arrangement amounted to two dollars for one hundred acres, compared with a maximum of \$2.80 under the new (county taxes, two dollars; state tax, eighty cents). The adoption of the new law resulted in an immediate aug-

mentation of the state revenues. The receipts from the property tax in 1836-38 were approximately \$90,000; for the next biennium they amounted to over \$125,000.

A few of the administrative features of the new law are also of interest. The tax officials, both assessors and collectors, were appointed by the county commissioners' courts.<sup>9</sup> The assessor was to be furnished annually with lists of lands;<sup>10</sup> he was then to call upon each property owner, value his land, and assess his personal property. He was authorized to require any person to swear to make "true and distinct answers" to all questions. If the person was not at home, the assessor made an estimate which stood unless complaint was made. Refusal to list rendered the person liable to an arbitrary assessment and a fifty dollar fine. In case of dissatisfaction, an appeal could be made to the county commissioner's court; no other review or equalization was provided. Collections were to be made by means of personal calls at the residences of property owners. Personal property was first to be seized for unpaid taxes, then real estate. The tax deed was to be given to the person offering to exact as penalty the least number of acres from the east side of the tract of land in question. The redemption period remained unchanged; land could be reclaimed within two years upon payment of double the amount for which the tract was sold plus subsequent taxes with interest.<sup>11</sup> This period was more extended in the case of minor heirs; it was indefinite when the land had been forfeited to the state. Except for assistance from the auditor in making up the land lists, there was no supervision or coöperation with the state authorities.

In the law of 1839 the property owners of the state encountered something different from what they were

<sup>9</sup>*Ibid.*, p. 3 *et seq.* The number of assessors might be one or more, according to the original law. An amendment passed in 1841 restricted the number to one. *L.* 1840-41, p. 34.

<sup>10</sup>An amendment passed in 1839, directed the assessor to add lands which he might discover to be missing. *L.* 1839-40, p. 4.

<sup>11</sup>Six per cent by the original law; ten per cent in township counties by an amendment. *L.* 1853, p. 81.

accustomed to in the earlier laws. The county taxation of personal property under the system in force prior to this time must have been extremely insignificant, for the attempt to put the new law into effect aroused a storm of protest. Both the auditor and the governor remark about the hostility to the law.<sup>12</sup> Complaint was made particularly about the "details" of the law, probably referring to personal visits of the assessor to value property. The rate of taxation was also the cause of dissatisfaction. So strong was the feeling that "some of the counties . . . resisted it by a refusal to list their taxable property"! The governor pointed out the absurdity of such an attitude; he expressed his approval of the principle of the law, *viz.*, "that each person should pay a tax in proportion to the value of his property"; describing some of the "details" as "justly . . . objectionable," he recommended their modification; and, finally, he pointed out the impossibility of reducing taxes, "the present revenue not being sufficient to defray the ordinary expenses of the State Government." Indeed at this very time a joint committee of the two houses of the legislature was considering the question of raising still greater sums by taxation. Interest payments on the state debt were becoming a very serious problem.<sup>13</sup> The committee declared it to be a "certainty that we must ultimately resort to direct taxation to meet our liabilities"; but additional taxation was not a possibility at that particular time because the people were "not in a condition to bear it."<sup>14</sup> The legislature responded with a few slight administrative amendments, for the most part changes in dates and fees.<sup>15</sup>

About this time work was abandoned on the internal improvement scheme and the struggle to raise money to meet interest payments reached an acute point.<sup>16</sup>

<sup>12</sup>*Aud. Rept.*, 1839, p. 12; Message of Governor Carlin, Dec. 10, 1839, *Senate and House Reports*, 11 G. A., 2 Sess., p. 10.

<sup>13</sup>\$592,800 was the amount annually accruing at this time. *Aud. Rept.*, 1839, p. 14.

<sup>14</sup>*S. J.*, 11 G. A., 2 Sess., p. 145.

<sup>15</sup>*L.* 1839-40, p. 3.

<sup>16</sup>*Ibid.*, p. 93.

*The First Interest Tax.*

The legislature which met late in 1840 authorized the hypothecation of state bonds to pay interest—an act which greatly irritated the citizens of the state.<sup>17</sup> Governor Carlin realized that the course adopted was a suicidal one and “ere long must be abandoned.”<sup>18</sup> It ought not to be concealed that if the vast debt which has been incurred on account of our internal improvements is ever to be paid, it must be done through the medium of taxation.” Knowing that the weight of the tax burden already imposed precluded any increase in the tax rate, he made the clever proposal that the state increase its revenues at the expense of the counties. His suggestion was that the county maximum rate be reduced from fifty cents to twenty cents per one hundred dollars of valuation and the state rate be increased from twenty to twenty-five cents. By this plan the total tax rate “would be reduced instead of increased and the counties would still, with proper economy, be supplied with means to meet all necessary expenditures.”

But the governor’s suggestion did not appear judicious to the legislature. The course adopted included a fifty per cent increase of the state rate, making it thirty cents, but involved no deduction in the county rate.<sup>19</sup> The revenue from the additional rate was to “be set apart exclusively for the payment of interest on state indebtedness.” This act included another noteworthy provision, whose significance may be variously construed. It provided that the minimum valuation of lands for taxation should be three dollars per acre and that each assessor should be required to swear “particularly” that he would “in no instance value any land at three dollars an acre, that he, in his conscience, believes to be worth more.” Of course this clause may be merely an attempt to get more revenue from low class land than was exactly just under the general principle of the system in force. But the much more probable explanation is that the legislators were very much alive to the fact that

<sup>17</sup>*Niles’ Register*, LXI, 242 *et seq.*

<sup>18</sup>*Repts.*, 12 G. A., 1 Sess., p. 8.

<sup>19</sup>*L.* 1840-41, p. 165. Minor changes in the administration of the system were made by an act passed in February, 1841. *Ibid.*, p. 34.

evils of undervaluation were in existence even during these early years.<sup>20</sup>

Although the necessity for heavy taxes was clearly apparent, the difficulty of imposing them was equally evident. Governor Carlin, upon giving up his office late in 1842, included this paragraph in his parting message to the legislature:

To increase the rate [of taxation] at the present time would be to inflict general embarrassment and distress, and to impose upon the people a burden which they could not possibly endure. Therefore I am forced to the unpleasant and humiliating conviction, that you cannot from this source [taxation], or any other at your command, make any permanent provision for the payment of interest.<sup>21</sup>

He recommended "going into liquidation, now, by placing those lands, by legislative enactment, at the option of the holders of our bonds."

The summary of conditions in the message of the incoming governor, Thomas Ford, was quite as gloomy.<sup>22</sup> He showed (1) that the total taxable property of the state amounted to less than seventy million dollars; (2) that the state contained less than one hundred and twenty-five thousand men between fifteen and fifty years of age;<sup>23</sup> (3) that the tax rate was already heavy, being fifty cents for county and thirty cents for state purposes; (4) that good money was very scarce, probably not exceeding "double the amount to be raised for taxation for a single year"; and finally, (5) that Illinois was in the agricultural stage and not able to pay such high taxes as commercial and industrial states. There was a bare possibility, he thought, that "a most rigorous system of oppressive taxation would yield a sum sufficient to pay interest for a single year. But such a tax could not be repeated."

In view of these circumstances it seemed to the governor that nothing remained to be done but to declare the

<sup>20</sup>The law fixing this minimum valuation was repealed in 1849. *L.* 1849, 1 Sess., p. 124.

<sup>21</sup>*S. J.*, 13 G. A., 1 Sess., p. 18.

<sup>22</sup>*Ibid.*

<sup>23</sup>The census figure for the total population in 1840 was 476,183. *Census of 1870, Population and Social Statistics*, p. 23.

state a bankrupt. This he proceeded to do in the following mournful words:

Thus we arrive at a conclusion of painful interest, that the state is not in a condition to fulfill its solemn engagements. And however mortifying it is to our pride, there is still one consolation, that it has been produced by a want of ability and not by a want of inclination. The main thing with which the world can justly reproach us is that we were visionary and reckless: that without sober deliberation we rushed headlong into ambitious schemes of public aggrandizement, which were not justifiable by our resources. Nor are our original creditors free from reproach on the same ground. They, as men of intelligence, sufficient for the proper management of large capital, ought as well as ourselves, to have seen our future want of ability and the constant catastrophe which our common error has produced.<sup>24</sup>

### *Economic Depression.*

But messages to the legislature pointing out that everyone concerned should have known better did little toward relieving the condition. Moreover the situation was particularly acute because of the economic depression which developed and continued through 1843 and 1844. Governor Carlin had announced late in 1842 that the expected increase in the amount of land becoming taxable for the first time had been about counterbalanced by the decrease in value of all property because of the bad times.<sup>25</sup> In December, 1844, Governor Ford complained that "for the last two seasons the crops have not been so abundant as usual"; that high waters had destroyed much property; and, what is perhaps even more important, the people were "oppressed with the apprehension of evil from the magnitude of the state debt."<sup>26</sup> The debt was a "continual source of terror to the people. They have lived in the expectation of oppressive taxes. . . . It is a fact too notorious to be concealed that nothing but the utter impossibility of sell-

<sup>24</sup>S. J., 13 G. A., 1 Sess., p. 38.

<sup>25</sup>*Ibid.*, p. 17. This decrease had taken place, it should be noted, in spite of the law fixing the minimum valuation of land at three dollars per acre.

<sup>26</sup>S. Repts., 14 G. A., 1 Sess., p. 3 *et seq.* At this time the arrears of state taxes amounted to \$59,304, more than one-third the annual tax revenue.

ing real estate, prevents the rapid decrease of our numbers."<sup>27</sup> "Many would dispose of their property at a considerable sacrifice with a view to emigration."<sup>28</sup> The settlers in the northern tier of counties circulated petitions praying Congress to change the boundary of the state so as to include them within the limits of Wisconsin.<sup>29</sup> Immigration, it was declared in 1842, had almost ceased.<sup>30</sup> It is true that a census made in 1845 showed that in five years the population had increased nearly forty per cent,<sup>31</sup> and that the regular decennial census showed that between 1840 and 1850 the increase had amounted to nearly eighty per cent. But nevertheless these figures reveal a distinct slowing up in the rate of increase, for during the preceding decade, 1830-40, the population had increased two hundred per cent.

Although the outlook was dark and no one seemed to know whence the necessary funds were to come, the people as a whole were never quite willing to acknowledge that the debt could not be paid. The faith of the majority in the future of the state was great enough to silence the repudiation talk of the minority.<sup>32</sup> The legislators, early in 1843, with an empty treasury, officially registered their protest against repudiation in the following words:

Resolved . . . That we fully recognize the legal and moral obligations of discharging with punctuality, every debt contracted by any authority, agent or agents of this state for a good and valuable consideration; and that the revenues and resources of the state shall be appropriated for that purpose as soon as they can be made available without impoverishing and oppressing the people.<sup>33</sup>

One might well ask what more could they do. What assets the state owned were unmarketable at the time.<sup>34</sup>

<sup>27</sup>*Ibid.*, pp. 10, 11.

<sup>28</sup>*S. J.*, 13 G. A., 1 Sess., p. 37.

<sup>29</sup>*Niles' Register*, LXI, 416.

<sup>30</sup>*S. J.*, 13 G. A., 1 Sess., p. 37.

<sup>31</sup>*Ibid.*, 15 G. A., 1 Sess., p. 71.

<sup>32</sup>Governor Ford was firm in his attitude against repudiation. *S. J.*, 13 G. A., 1 Sess., p. 36; Gerhard, *Illinois As It Is*, p. 105.

<sup>33</sup>Joint Resolution, adopted Feb. 21, 1843. *L.* 1842-43, p. 335.

<sup>34</sup>A report on Nov. 11, 1844, shows that 17,624.97 acres of land had been sold by that date. These sales produced only \$65,031.27, and this

Negotiations were under way for a settlement with the banks and for a loan for the completion of the canal. Nothing more could be done than they did, *viz.* to declare their intention of paying in full when able, and then to wait until they should be able. This meant waiting until conditions became such that large sums could be raised by taxation and the assets of the state in the form of land became marketable.

In September, 1842, state bank paper was outlawed for tax payments.<sup>35</sup> As such paper was much depreciated, this action, of course, had the effect of making tax collections much more difficult. In December, 1842, it was reported that the people were "scarcely able to pay" in specie the additional rate imposed for interest purposes. Sympathizing with the tax payers in their struggles to meet their payments and probably feeling that the burden was weighing even more heavily than had been intended, the legislature in February, 1843, decided to cut the tax rate for the preceding year in half, making it fifteen cents instead of thirty.<sup>36</sup> Any person who had already paid his taxes at the thirty cent rate could substitute one-half the amount in specie and receive back all he had paid in. Where the taxes were yet uncollected they were to be paid only in specie or in certain types of auditor's warrants. The state rate for 1843 was made twenty cents, the normal tax under the act of 1839. No special ten cent rate was levied for the Interest Fund, the legislature suspending the law for 1842 and 1843.<sup>37</sup>

The real purchasing power of the state revenue under the fifteen cent rate, payable in specie, was probably fully

sum was in the form of internal improvement bonds and script. *S. Repts.*, 14 G. A., 1 Sess., p. 3 *et seq.*; *cf. Aud. Rept.*, 1844, p. xxiv.

<sup>35</sup>The proclamation of the governor was reinforced by an act of the legislature, passed February 23, 1843. *L.* 1842-43, p. 39. The state had in its possession at this time \$75,660 in the paper of the banks. Under the authorization of the legislature the treasurer paid this out at fifty per cent discount. *Ibid.*, p. 231; *Treasurer's Report*, 1844, p. xxvii *et seq.*

<sup>36</sup>*L.* 1842-43, p. 228.

<sup>37</sup>*Ibid.*, p. 231.

as great as a thirty cent rate, payable in paper. However, this reduction, as well as the suspension of the ten cent rate for the Interest Fund, had a very unfortunate effect upon the canal creditors. Just at this time they were considering the proposition that they lend an additional \$1,600,000 to complete the canal, and before agreeing to the proposal were merely awaiting from the state some expression of willingness to submit to heavier taxation, if necessary.<sup>38</sup> The agents of the state were seriously embarrassed in their efforts to float the loan because of this purely nominal but very ill-timed reduction of the rate of taxation.<sup>39</sup> The creditors insisted upon the restoration of the interest tax, saying that until the legislature and the people of the state "manifested some public regard to their obligations," they felt themselves unable to furnish further funds.<sup>40</sup>

*Changes in Tax Laws and the Canal Loan.*

Various influences combined to bring about an increase in the tax rate in 1845. The governor in his message had pointed out that the state taxes were "three times less than they are in the great and flourishing state of Ohio."<sup>41</sup> "It will be impossible," he said, "to raise money enough by taxation to pay the entire interest; still something may be done." Mention is heard of petitions signed by large landholders praying for heavier taxation. "All classes" were reported in favor of it.<sup>42</sup> The influence of the pending loan

<sup>38</sup>Cf. *ibid.*, p. 54.

<sup>39</sup>S. J., 14 G. A., 1 Sess., p. 13; S. Repts., 14 G. A., 1 Sess., p. 93. Governor Ford urged that the rate be not reduced. *Ill. Hist. Coll.*, VII, 46.

<sup>40</sup>S. Repts., 14 G. A., 1 Sess., p. 93; J. W. Putnam, *An Economic History of the Illinois and Michigan Canal* (Reprinted from the *Journal of Political Economy*, XVII), p. 291; Gerhard, *op. cit.*, p. 104 *et seq.*

<sup>41</sup>S. J., 14 G. A., 1 Sess., p. 18.

<sup>42</sup>*Niles Register*, LXVI, 340. One wonders, however, whether the circulators of petitions were not the owners of the lands which would be particularly benefited by the completion of the canal and who would naturally not be averse to assuming an additional tax, along with all the other property owners of the state, in order to bring about this desirable object. This was certainly the situation in Chicago, which was the source of other such petitions during this period.

from the canal creditors was probably greater than any other factor. At length the legislature agreed to the conditions of the creditors, the loan being consummated in 1845,<sup>43</sup> and after a bitter struggle and many reconsiderations, a law reimposing the interest tax was passed.<sup>44</sup>

Resort was made in this contingency to the old plan of Governor Carlin, advanced in 1840. The county tax was scaled down ten cents and the state rate was raised that amount for the year 1845.<sup>45</sup> This ten cent rate or one mill tax, as it was more generally known, was to be increased fifty per cent in 1846, *viz.* to fifteen cents or to one and one-half mills, and was to continue indefinitely at that rate.

In 1845, moreover, the legislature took occasion to repeal a law passed two years before which had modified in quite a reactionary fashion some of the administrative features of the act of 1839.<sup>46</sup> The act of 1843 had reverted to the old plan of delegating the assessment to county treasurers and collection to the sheriffs.<sup>47</sup> It had done away with the personal calls of the assessor, providing instead that notices should be posted of the time when the county treasurer would be present in each election district, depending, as in earlier times, upon each property owner

<sup>43</sup>*Ill. Hist. Coll.*, VII, lxxvi.

<sup>44</sup>*Ibid.*, p. lxi.

<sup>45</sup>*L.* 1844-45, p. 3 *et seq.* The general limitation on the county tax rate was quite frequently negated by special acts of the legislature which empowered particular counties to increase their tax rate beyond the limit for various purposes. *Ibid.*, pp. 125, 126, 251.

<sup>46</sup>Among the minor changes during these years were several concerned with the pay of tax officials (*L.* 1842-43, p. 236; *L.* 1844-45, p. 23); specifying the kinds of money receivable for taxes (*L.* 1842-43, pp. 39, 237); exempting land lying within the corporate limits of cities from taxes for corporate purposes when not laid out in town lots (*Ibid.*, p. 238); exempting property used exclusively for educational purposes, including land up to 160 acres (*Ibid.*, p. 70); taxing Illinois and Michigan Canal lands sold on credit, but restricting the lien to the interest in the land paid for by the purchaser (*L.* 1844-45, p. 42); exempting for five years internal improvement land sold (*L.* 1842-43, p. 193); specifying in more detail the procedure in connection with the sale of land for taxes (*Ibid.*, p. 235, *L.* 1844-45, pp. 11-13 *et seq.*).

<sup>47</sup>*L.* 1842-43, p. 231.

to present himself at the designated time and give an account of his taxable property. Moreover, it had adopted a similar plan for collecting the taxes. The penalties of the old law had been reënacted almost without change. But the receipts from the general property tax for 1842-44 showed a considerable decrease over those of the preceding biennium, from approximately \$280,000 to \$225,000. A number of factors were responsible for this—the change in the rates, the general depression in the state, and, perhaps, the change in the assessment methods. At any rate the legislature made haste to modify the assessment methods prescribed in the law of 1843. It reëstablished the system of personal calls of assessors and collectors. It did not, however, restore the former method of choosing these officials; the treasurers and the sheriffs were to continue to assess and collect the taxes as under the law of 1843.

The new act frankly makes the law general. "All property," reads the first section, "real and personal within the state, shall be liable to taxation."<sup>48</sup> The usual exemptions are enumerated, the list closely approximating that of the law of 1839. Real property was defined so as to include not only lands but also buildings and improvements. Personal property was made to embrace every species of property not included in the description of real estate.

But even with the banking and canal indebtedness provided for and with a mill and a half interest tax in effect, the state was yet in an extremely uncomfortable position in regard to the state debt. By December 1, 1846, the new interest tax had produced only \$62,024.33. But the yield for the following biennium was much more substantial, amounting to \$234,943.92.<sup>49</sup> However, such sums as these were far from sufficient to meet the accruing interest charges and of course could contribute nothing toward paying off the overdue interest or toward discharging the principal of the debt.

<sup>48</sup>L. 1844-45, p. 3 *et seq.*

<sup>49</sup>*Aud. Rept.* 1846, p. ii; *ibid.*, 1848, p. v.

*Improved Outlook.*

On the other hand, in 1846, the general outlook had begun to brighten. The balance against the treasury had been reduced to a relatively insignificant amount, \$31,000, and as a result, auditor's warrants, which had passed at a fifty per cent discount, rose to seventy-five per cent in 1844 and to par in 1846.<sup>50</sup> As soon as it became evident that repudiation would not be resorted to, there was a favorable reaction in the market price of state bonds. Quoted at from 14 to 18 late in 1842, they began to increase rapidly in value.<sup>51</sup> Moreover, there had been a marked increase in land sales. From April 1, 1844, to December 1, 1846, 91,629.30 acres of land were sold—land which had been purchased by the state in connection with the internal improvement enterprise—and \$379,721.44 had been realized from the sales.<sup>52</sup> The figures for the two years ending December 1, 1848, however, show a decided slump, only 15,212.42 acres being sold, the receipts being \$67,710.21.<sup>53</sup>

The question of increasing the rate of taxation continued to agitate the state. Governor French, late in 1846, declared that he did "not feel called upon to recommend any increase."<sup>54</sup> What should first be done was to refund the debt, "preparatory to a more united and vigorous exertion for its payment."<sup>55</sup> The debt was in a most confused state. No accurate record existed of the classes, numbers, and descriptions of the outstanding bonds, so that it was impossible to determine the precise amounts of the indebtedness of the state, its character, and the date of payment. The legislature responded by supplying the governor with proper authority to treat with the creditors in regard to the matter.<sup>56</sup>

<sup>50</sup>*Aud. Rept.*, 1844, p. 23, *S. Repts.*, 15 G. A., 1 Sess., p. 2.

<sup>51</sup>*Aud. Rept.*, 1844, p. 24; *H. J.*, 14 G. A., 1 Sess., p. 12.

<sup>52</sup>*Aud. Rept.*, 1846, p. 37.

<sup>53</sup>*Ibid.*, 1848, p. 12.

<sup>54</sup>*S. Repts.*, 15 G. A., 1 Sess., p. 15.

<sup>55</sup>*L.* 1846-47, p. 161.

<sup>56</sup>*Ibid.*, pp. 161, 167.

Among the projects brought forward as a means for raising additional revenue was a proposal to establish a poll tax. But it seemed wise to the legislature to throw the onus of such a measure upon the constitutional convention, whose delegates were about to be chosen.<sup>57</sup> Moreover, all the more important measures in taxation seem to have been held in abeyance until the results of the constitutional convention should become known. The regular fifteen cent interest tax, the twenty cent state revenue tax, and the forty cent county tax were levied in 1846, 1847, and 1848. In addition a two cent tax was levied in 1847 and 1848 for the insane hospital.<sup>58</sup>

<sup>57</sup>*Ibid.*, p. 33.

<sup>58</sup>Several changes of relatively slight importance were made in 1847. United States lands, Congress having given permission, were made taxable as soon as sold, thus removing a cause which had occasioned great dissatisfaction in earlier years. *Supra*, p. 31; *L.* 1846-47, p. 83. An appeal to the circuit court was provided for property owners who were dissatisfied with the decision of the county commissioner's court as to the correctness of their assessment. *Ibid.*, p. 80. The penalty upon sheriffs for delay in turning over tax collections was also reduced. *Ibid.*, p. 81.

## CHAPTER VI

### TAXATION FOR DEBT PAYMENT (CONTINUED), 1848-1872

#### *The Constitution of 1848.*

The convention which framed the constitution of 1848 had as its main concern the formation of a plan for paying off the state debt. The instrument which they presented for ratification after their deliberations has been characterized by Governor Palmer as "the expression of the determination of the people of that day to meet every obligation, and to practice the most rigid economy, until the claims of the public creditors were placed in a condition that would satisfy them."<sup>1</sup> The new constitution made sure of two things: first, that the public credit should not be further abused, and, second, that something should be paid every year upon the principal of the state indebtedness.

Of least importance, perhaps, were the provisions forbidding the state to borrow money—provisions passed after its credit had been destroyed. The door of the empty treasury was locked by the following clause:

No other debt [beyond a \$50,000 bond issue to meet casual deficits or failures in revenues] except for the purpose of repelling invasion, suppressing insurrection, or defending the state in case of war . . . shall be contracted, unless the law authorizing the same shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for members of the General Assembly at such election. Moreover, provision for the payment of interest was required to be made at the time of the authorization of the loan.<sup>2</sup> Another paragraph specifies that "the credit of the state shall not, in any manner, be given to, or in aid of, any individual, association, or corporation."<sup>3</sup> No state bank was to be created and the state was not to be liable

<sup>1</sup>*Senate Journal*, 27 G. A., 1 Sess., p. 13.

<sup>2</sup>Constitution of 1848, Art. III, § 37; L. 1849, 1 Sess., p. 3 *et seq.*

<sup>3</sup>Art. III, § 38.

for any stock in any corporation or joint stock association organized for banking purposes.<sup>4</sup> The legislature was urged to encourage internal improvements, but only by the innocuous method of "passing liberal laws of incorporation for that purpose!"<sup>5</sup>

The clause which arouses the greatest interest is that imposing a twenty cent tax for the repayment of the principal of the internal improvement loan. It reads:

There shall be annually assessed and collected, in the same manner as other state revenue may be assessed and collected, a tax of two mills on each dollar's worth of taxable property, in addition to all other taxes, to be applied as follows, to wit: the fund so created shall be left separate, and shall annually on the first day of January, be apportioned and paid over *pro rata* upon all such state indebtedness other than the canal and school indebtedness, as may for that purpose be presented by the holders of the same, to be entered as credits upon, and to that extent in extinguishment of the principal of such indebtedness.<sup>6</sup>

In this manner the people bound themselves by a constitutional clause, the strongest bond possible for them to weld, to tax themselves a substantial amount for the purpose of paying off the principal of the state debt.

There was a movement in the convention in favor of fixing a maximum rate of taxation. The committee of revenue was by resolution "instructed to inquire into the expediency" of such a plan. But the committee, after some delay, requested to be discharged from the further consideration of the matter, and the constitution went to the people with no restrictions upon the power of the legislature to raise money by taxation.<sup>7</sup>

The constitution permitted the levy of a poll tax of from fifty cents to a dollar upon each able bodied, free, white, male inhabitant between the ages of twenty-one and sixty years.<sup>8</sup> The proposal for a poll tax as first made in the constitutional convention, was quite different from that finally adopted. As first reported from the revenue com-

<sup>4</sup>Art. X, § 3.

<sup>5</sup>*Ibid.*, § 6.

<sup>6</sup>Art. XV.

<sup>7</sup>*Journal of the Convention of 1847* (Springfield, 1847), pp. 88, 97.

<sup>8</sup>Art. IX, § 1.

mittee it was to be a compulsory levy for the specific object of paying interest on the sums borrowed from the School, College, and Seminary Funds.<sup>9</sup> As finally passed, the clause permitted, but did not direct the legislature to levy the tax and it specified no particular object as the beneficiary.

Of great interest, also, from the point of view of this study, are the provisions regulating the general system of taxation. The property tax was prescribed in the following language:

The General Assembly shall provide for levying a tax by valuation, so that every person and corporation shall pay a tax in proportion to the value of his or her property; such value to be ascertained by some person or persons elected or appointed in such manner as the General Assembly shall direct and not otherwise; but the General Assembly shall have power to tax peddlers, auctioneers, brokers, hawkers, merchants, commission merchants, showmen, jugglers, inn-keepers, grocery keepers, toll bridges and ferries, and persons using and exercising franchises and privileges, in such manner as they shall from time to time direct.<sup>10</sup>

This clause marks no distinct departure from the theory of the system already in force, with the single exception of its clash with the minimum valuation law of 1841.<sup>11</sup> Property of the state and counties was specifically exempted from taxation but the right to make such other exemptions as might be desirable for school, religious, or charitable purposes was delegated to the legislature.

Nothing more of importance from this point of view was contained in the instrument except a clause providing for certain formalities before granting clear titles to holders of tax titles and another regulating local taxation, which required "that all the property within the limits of municipal corporations, belonging to individuals," should be taxed "for the payment of debts contracted under authority of law."<sup>12</sup>

In submitting the result of its labors for ratification, the convention presented an "address to the people," ex-

<sup>9</sup>*Journal of the Convention of 1847*, pp. 79, 412-414.

<sup>10</sup>Art. IX, § 2.

<sup>11</sup>*Supra*, p. 83.

<sup>12</sup>Art. IX, § 5.

plaining the plan for debt payment as embodied in the new constitution.<sup>13</sup> In nineteen years, the two mill (twenty cent) tax provided for in the new constitution would yield enough to pay the principal of the debt, except for about \$50,000. The principal amounted to \$6,245,380, it was estimated, exclusive, of course, of canal indebtedness. The plan contemplated not only paying off the indebtedness before it became due but also paying it off before catching up on back interest payments, and even before making sure that current interest charges would be met. Already there was unpaid accrued interest to the amount of \$2,248,372, and this amount would increase to \$6,559,916 during the nineteen year period. To meet interest charges, there would be available about three-fifths of the income from the fifteen cent (one and one-half mill) interest tax which had been levied since 1846, and which, it was proposed, would continue to be levied.<sup>14</sup> Receipts from this source, it was frankly recognized, would not be sufficient to take care of all the interest charges, but what would be unpaid at the end of nineteen years (\$3,775,316, it was estimated,) together with the unpaid principal (\$51,380) could be cleared off by six years more of taxation at the same rates. "All this, too," urged the address, could be accomplished "without materially increasing our burdens, when viewed in connection with the proposed reduction of state expenses."<sup>15</sup>

The constitution was adopted "with a unanimity of sentiment scarcely paralleled."<sup>16</sup> The two mill tax was submitted separately and adopted by ten thousand majority.<sup>17</sup>

But the enthusiasm of the people for the new constitution was not shared by the bond holders. "You can scarcely conceive of the feeling that exists in relation to

<sup>13</sup>*Merchant's Magazine*, XX, 86.

<sup>14</sup>The other two-fifths of the tax was necessary to meet interest charges on canal indebtedness.

<sup>15</sup>*Loc. cit.*

<sup>16</sup>*S. J.*, 16 G. A., 1 Sess., p. 7.

<sup>17</sup>Gerhard, *Illinois As It Is*, p. 132.

the two mill tax provided for in the constitution," wrote Julius Wadsworth, agent for refunding the state debt, from New York, in December, 1848. "Many openly denounce it as a species of repudiation." Strong objection was made to "the gradual reduction of the principal, leaving the accruing interest unpaid for."<sup>18</sup> Moreover, he complained that from his point of view the law was impracticable, for to pay to each bondholder his share of the amount which might be collected annually, would necessitate calling in all the certificates each year and issuing new ones in their place for the amounts to which the bonds had been reduced by the payment. He urged that the proceeds of the two mill tax be made applicable to interest.

In spite of the creditors' clamor, a law was passed in 1849 carrying the two mill tax clause of the constitution into effect.<sup>19</sup> But soon after, the legislature proposed a constitutional amendment which was expected to meet the difficulty; the revenue from the tax, instead of being applied each year in dribblets to paying off the debt, was to go to a sinking fund which might be used to discharge the indebtedness as it became due.<sup>20</sup> Strange to say, when finally this very reasonable amendment was voted upon by the people in 1852, it was lost.<sup>21</sup>

The tax code of Illinois was destined soon to adjust itself into the form set by the constitution of 1848. Within a few years the necessary modifications were made and, moreover, the revenue code came to bear a remarkable resemblance to the present law. In mere matters of phrasing as well as in the more fundamental respects, the statutes as they stand to-day have much in common with those of the early fifties.

As soon as the new constitution was adopted, an immediate necessity confronted the legislature of adapting the law to its provisions.<sup>22</sup> So serious did the necessary

<sup>18</sup>*Ill. Hist. Coll.*, VII, 294, 295.

<sup>19</sup>*L.* 1849, 1 Sess., pp. 126, 127.

<sup>20</sup>*L.* 1849, 2 Sess., p. 54; *L.* 1851, pp. 107-09.

<sup>21</sup>*Gov. Mess., S. J.*, 18 G. A., 1 Sess., pp. 11, 12.

<sup>22</sup>*S. J.*, 16 G. A., 1 Sess., p. 8.

changes appear to the governor that he included them among his reasons for calling a special session of the legislature.<sup>23</sup>

It is true that the minimum valuation law of 1842, which specified that no land in the state should be assessed at less than three dollars an acre—a provision in direct conflict with the valuation requirement of the new constitution—had already been repealed.<sup>24</sup> But a complication had been introduced by the constitutional clause authorizing the township form of government. It was made optional whether a county should retain its old form of organization or should adopt the township system. Some thirty counties immediately adopted the new system; others retained the old.<sup>25</sup> This practically necessitated two revenue systems, one adapted to each form of government. Here is the beginning of the dual system in Illinois which is in large part responsible for the complexity of the statutes of that state.

The township organization act as passed in 1849 took the management of most fiscal affairs in such counties out of the hands of the county court,<sup>26</sup> and vested it in township officers. A new bit of machinery was introduced by this law in its provision for the review and equalization of assessments. The assessor was to give notice of a time when he should consider complaints, and on an affidavit of a property holder that the value of his personal property did not exceed a certain amount, the assessment was to be reduced to that figure. Two years later the review was transferred to a board which included, besides the assessor, the town clerk and the supervisor. Valuation of real property might be modified in cases where a majority of the board deemed it advisable.<sup>27</sup> The law of 1849, moreover, provided for an equalization of the township assessments by the county board composed of the supervisors of

<sup>23</sup>*H. J.*, 16 G. A., 2 Sess., p. 8.

<sup>24</sup>*Supra*, p. 83; *L.* 1849, p. 124.

<sup>25</sup>*Aud. Rept.* 1850, p. 25.

<sup>26</sup>*L.* 1849, 1 Sess., p. 190 *et seq.*

<sup>27</sup>*L.* 1851, p. 57.

all the townships included within the limits of the county. It was a function of this board to make the valuations in one town bear a just relation to those in other towns. In its manipulations the board was not permitted to reduce the aggregate valuations of all the towns below the original aggregate.<sup>28</sup>

Both assessors and collectors were to be elected at the town meeting.<sup>29</sup> The county treasurer was to assume the duties formerly borne by the sheriff in connection with the collection of delinquent taxes.

Probably as part of the new plan of economy, a law of 1849 forbade the county clerks to make out new lists of taxable lands each year, unless specifically ordered to do so by the county court. Ordinarily they were merely to add new items to the old lists.<sup>30</sup>

But these changes were more or less hastily made and considerable confusion resulted when they were put into operation.<sup>31</sup> It was evident that the tax code needed a thorough overhauling. Slight modifications were made in 1851,<sup>32</sup> but the task of completely revising the code was postponed. Meanwhile the auditor was asked to prepare a model revenue bill. He presented such a measure to the legislature in 1852,<sup>33</sup> and in 1853 a code was adopted which remained on the statute books for fifteen years without a single amendment of consequence.

### *The Revenue Code of 1853.*

The new revenue measure of 1853 encountered strong opposition in the General Assembly. A great hue and cry was raised because the new law required "all property to

<sup>28</sup>*L.* 1849, 1 Sess., p. 207 *et seq.*

<sup>29</sup>*Ibid.*

<sup>30</sup>*Ibid.*, p. 124.

<sup>31</sup>*Aud. Rept.* 1850, p. 25.

<sup>32</sup>Closer coöperation was provided between the state and the township authorities. *L.* 1851, p. 58. Inspired, evidently, by a belated pang of conscience, the state made the notes and bills of the State Bank of Illinois receivable at the treasury and offered to pay two per cent interest on them. *Ibid.*, p. 120.

<sup>33</sup>*Aud. Rept.* 1852, p. 5.

be assessed at its true value in money."<sup>34</sup> This seems very strange in view of the constitutional requirement and the act of 1849 repealing the minimum valuation law of the early forties. The only explanation is that the tax payers, even at this early date, had become so accustomed to considerable undervaluations that any other condition seemed unnatural and unfair.

The new code was dual in form, distinct acts applying to township and to non-township counties. Naturally enough the first section, specifying the property to be taxed, was the same in each act. It reads:<sup>35</sup>

That all property, whether real or personal, in this state; all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise, of persons residing in this state, or used or controlled by persons residing within this state; the property of corporations now existing or hereafter created, and the property of all banks, or banking companies, now existing or hereafter created, and of all bankers and brokers, except such property as is hereinafter expressly exempted, shall be subject to taxation; and such property, moneys, credits, investments in bonds, stocks, joint-stock companies or otherwise, or the value thereof, shall be entered on the list of taxable property, for that purpose, in the manner prescribed in this act.

Real estate was so defined as to include buildings and improvements. Under "personal property" was to be listed "every tangible thing, being the subject of ownership, whether animate or inanimate, other than money and not forming part or parcel of real property." "Money" included bank deposits and cash on hand. "Credits" were defined as

every claim or demand for money, labor, or other valuable thing, due or to become due, or every annuity or sum of money receivable at stated periods, and all money invested in property of any kind which is secured by deed, mortgage, or otherwise, which the person holding such deed, or mortgage, or evidence of claim, is bound by any lease, contract or agreement, to reconvey, release, or assign, upon the payment of any specific sum or sums.

Pensions, which would fall naturally under this definition, were exempted from taxation.

<sup>34</sup>*Ibid.*, 1854, p. 5.

<sup>35</sup>*L.* 1853, pp. 3, 35.

The law includes the following paragraph intended to eliminate double taxation:

No person shall be required to list a greater portion of any credits than he believes will be received or can be collected; nor any greater portion of any obligation given to secure the payment of rent, than the amount that shall have accrued on the lease, and shall remain unpaid at the time of such listing. No person shall be required to include in his statement, as a part of the personal property, moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise, which he is required to list, any share or portion of the capital stock or property of any company or corporation which is required to list or return its capital and property for taxation in this state. . . .

More liberal reductions were allowed for debts than are permitted at present. In making up the item of moneys and credits, the property owner was permitted to deduct all his *bona fide* debts,<sup>36</sup> with the qualification that no deduction would be allowed

on account of any bond, note, or obligation of any kind, given to any mutual insurance company, nor on account of any unpaid subscription to any religious, literary, scientific, or charitable institution, or society; nor on account of any subscription to or installment payable on the capital stock of any company, whether incorporated or unincorporated.

Foreign insurance companies were taxed at the regular rates for both state and local purposes upon their gross receipts in the state.

Merchants were assessed on the average value of their stock during the preceding year, manufacturers on the average value of their materials.

The following peculiar and indefinite provision was included to govern the question of allowance for debts:

Provided that from the value of any property, being a product of this state, the merchant or manufacturer listing the same shall be entitled to deduct the amount owing by him for such property, or for moneys invested therein; And, provided further, that from the value of property, being the product or stock of this state, the farmer or dealer listing the same shall be entitled to deduct the amount owing by him for such property, or for moneys invested therein.

The exemptions included the usual items of property devoted to educational, charitable, and burial purposes, of property belonging to the state etc.

<sup>36</sup>This provision did not apply to banking companies.

Property was to be assessed "at its true value in money, excluding the value of crops growing thereon." "But the price for which property would sell at a forced sale" was not to be taken as the criterion of such value.

The most interesting change in the plan for assessing property was the introduction of biennial assessments of real estate. Before this time all property was assessed annually, except in so far as this practice was interfered with by the act of 1849.<sup>37</sup> Under the new law (1853) personal property was valued each year but real estate only every other year.<sup>38</sup> This change seems to have been first suggested by the auditor in his report for 1850.<sup>39</sup>

The listing of personal property was secured by the circulation of tax lists. Each property owner was compelled to sign a statement of his personal property, itemized under fourteen heads. Strangely enough, no oath was required. The reason that no such requirement was included becomes apparent when one reads the auditor's report for 1854. After commenting upon the difficulty experienced in ascertaining the value of moneys and credits, where "correct information" lay "solely within the knowledge of the owners or persons controlling" the property, the auditor suggested that it might be necessary to require that such property be returned under oath. But his misgivings in regard to such a course found expression in these words: "It must be remembered, however, to what a great extent the security of property and the protection of character and life depend upon the sanctity of the oath; for this reason I am not disposed to require oaths to be administered to parties on matters where they are directly and personally interested, if it can be avoided."<sup>40</sup> Later experience has shown that the dangers mentioned are need-

<sup>37</sup>*Supra*, p. 99.

<sup>38</sup>An amendment passed in 1855 instructed assessors to add any real estate which had become taxable and new buildings, and to subtract in the case of destruction by fire, flood, etc. *L.* 1855, p. 38.

<sup>39</sup>*Aud. Rept.* 1850, p. 24.

<sup>40</sup>*Ibid.*, 1854, p. 6.

lessly encountered; for the oath seems to have but slight success in accomplishing a full assessment, the end desired.<sup>41</sup>

The dissatisfied property owner was provided, by the law of 1853, with an appeal to the board of supervisors in counties under the township system and to county courts in other counties. The decisions of these bodies were not to be considered final, however, until approved by the auditor of public accounts.<sup>42</sup>

The collection of the taxes was to be accomplished by advertising the day when the collectors would be present in various election districts to receive the taxes. Overdue taxes were subject to a fifty per cent penalty. Jury certificates and county orders, as well as coin, were receivable for county taxes and auditor's warrants were acceptable for state taxes levied for the revenue fund. But the special state taxes were payable in coin only.<sup>43</sup>

With this law of 1853 in force Illinois collected the great bulk of her sums for debt payment. Not a change of importance was made until 1872 with the single exception of the act of 1867 establishing the state board of equalization, and this act was an addition rather than an alteration.<sup>44</sup>

### *Financial Conditions.*

Having traced the evolution of the tax code during these years to the point of relative stability reached in 1853, attention must now be directed toward the use of

<sup>41</sup>*Infra*, p. 144 *et seq.*

<sup>42</sup>In 1854 the board of supervisors was empowered to amend the assessment or to declare it void and order a new one if it were grossly inaccurate. In the latter case, special collectors might be appointed. *L.* 1854, pp. 27, 28.

<sup>43</sup>A law passed in 1863 added United States legal tender treasury notes and postage currency to the list of moneys receivable for taxes. United States bank notes and United States fractional currency were added in 1869. *L.* 1863, p. 82; *L.* 1869, p. 353.

<sup>44</sup>The return to annual assessments of real estate in township counties is not of sufficient moment to be considered an exception to this statement. *Aud. Rept.* 1856, p. 5.

the tax system to produce the much needed revenues. Taking an account of stock in 1849, the governor estimated the state debt at about \$16,660,000, which sum included canal claims and interest charges to date.<sup>45</sup> Two years later his estimate was but thirty thousand dollars less than this amount.<sup>46</sup> Under the funding operations begun in 1847, some three million dollars worth of original stock had been refunded by 1849, and over five and a half million by 1851.<sup>47</sup>

With a tax rate of twenty cents for interest, twenty cents for state debt, fifteen cents for revenue purposes, two cents for the insane hospital, and one cent for the blind asylum, the governor in 1849 considered the state taxes "as onerous as the people ought, at present, to be called upon to sustain."<sup>48</sup> The insane hospital tax was soon increased to three and one-third cents.<sup>49</sup> The insane hospital and blind asylum rates were discontinued after 1854, the balances being turned into the revenue fund in 1856.<sup>50</sup>

In 1849 an additional resource was added to the means for discharging the state debt, when a law was passed directing the governor to invest in Illinois bonds any school funds received from the United States government. Not much of the debt was purchased from this source, however, only \$139,664.31 in all being used.<sup>51</sup>

Conditions in general continued to improve. The assessed value of property increased from \$82,327,105 in 1845 to \$119,868,336 in 1850. The twenty cent rate for revenue purposes brought in sufficient revenue to meet all demands for current expenses and to leave a surplus

<sup>45</sup>S. J., 16 G. A., 1 Sess., p. 11; *Ill. Hist. Coll.*, VII, 201.

<sup>46</sup>H. J., 17 G. A., 1 Sess., p. 9 *et seq.* Cf. *Census*, 1880, VII, 625.

<sup>47</sup>S. J., 16 G. A., 1 Sess., p. 9; Gov. Mess., S. J., 17 G. A., 1 Sess., p. 9 *et seq.*

<sup>48</sup>S. J., 16 G. A., 1 Sess., p. 8.

<sup>49</sup>*Aud. Rept.* 1850.

<sup>50</sup>*Ibid.* 1854, 1856.

<sup>51</sup>L. 1849, 1 Sess., p. 70; *Aud. Rept.* 1850, p. 17; *Repts.*, 22 G. A., 1 Sess., p. 439.

besides, so that in 1850 the auditor was able to report that "for the first time since the formation of our state government, we have in the treasury a sum equal to, and which will be applied for, defraying the expenses of the present session of the General Assembly." By Nov. 30, 1850, \$165,788.81 had been received from the twenty cent state debt tax, and in the following two years \$492,166.53 was received in addition from this source. The fifteen cent tax for interest purposes which had yielded \$234,943.92 for the biennium ending December 1, 1848, produced \$296,326.89 during the following two years and \$366,393.75<sup>52</sup> in the biennium next succeeding. Some progress could now be made toward debt payment. Between 1850 and 1852, \$375,274.29 was paid from the State Debt Fund besides some minor payments from other sources.<sup>53</sup> Indeed, the affairs of the state were now being carried along on the crest of a wave of prosperity. Exceptionally good times were reported. "For the period embracing the last two years," said the auditor in 1854,<sup>54</sup> "no state in the Union has made more rapid progress in the development of its resources, and in the accumulation of wealth, or can show a greater degree of general prosperity than the great state of Illinois." The good times were also commented upon by the governor.<sup>55</sup>

The assessed value of property increased by leaps and bounds—to \$137,818,079 in 1851, to \$149,294,805 in 1852, and to \$225,159,633 in 1853, the year the new revenue law went into effect. The increase for 1853, amounting to over fifty per cent, is ascribed by the auditor almost entirely to the natural growth in value of property in the state and not to the operation of the new revenue law, but it seems doubtful whether the revenue law of 1853 should be denied

<sup>52</sup>\$372.89 of this sum was refunded.

<sup>53</sup>These include \$23,080.57 turned over to the governor from the School Fund for the purchase of state indebtedness, and payments from the Revenue Fund for debt purposes amounting to something over ten thousand dollars.

<sup>54</sup>*Aud. Rept.* 1854, p. 4.

<sup>55</sup>*H. J.*, 18 G. A., 2 Sess., p. 5 *et seq.*

credit, in view of the upward trend which has been so characteristic a phenomenon subsequent to the introduction of new revenue codes.

Levied on this rapidly expanding base, the twenty cent rate for revenue purposes increased faster than ordinary expenses. For the two years ending 1852, the revenue tax yielded \$443,503. Governor Ford recommended that the rate be reduced to ten cents,<sup>56</sup> a suggestion which was adopted forthwith. At the suggestion of the auditor, all unappropriated and surplus funds in the treasury were to be turned into a surplus revenue fund to be applied to the purchase of state indebtedness.<sup>57</sup> But because of the cut in the rate for revenue purposes, a cut which reduced the receipts to the revenue fund from \$443,503 to \$387,510, the amounts turned over to the Surplus Revenue Fund were inconsiderable.<sup>58</sup>

#### *The State Debt and Interest Funds.*

But in spite of debt payments, the governor's estimate of the total debt on January 1, 1853, was larger than that of 1851, the figure being placed at \$16,724,177. Accruing interest charges were, of course, not yet being met. But taxable property was increasing in the state more rapidly than the interest on the debt, so that the governor estimated that within five years the income from the interest tax would be sufficient to meet the full amount due annually upon the outstanding bonds.<sup>59</sup> The task of paying off the debt was now much more hopeful than it had seemed before.

Each year the receipts into the State Debt Fund and the Interest Fund increased, due to the increase of taxable property in the state. Table 6 shows the receipts and disbursements for the State Debt Fund for the entire period

<sup>56</sup>*S. J.*, 18 G. A., 1 Sess., pp. 12, 13.

<sup>57</sup>*Aud. Rept.* 1852, p. 4; *L.* 1853, p. 200.

<sup>58</sup>\$137,053.82 was paid into this fund in 1853 and 1854. \$117,053.82 was used in purchasing state indebtedness and the balance, \$20,000, was refunded to the Revenue Fund in 1856.

<sup>59</sup>*S. J.*, 18 G. A., 1 Sess., p. 10 *et seq.*

during which the twenty cent tax was imposed. How important was the rôle played by this tax in paying off the state debt can be appreciated at a glance.

TABLE 6.  
STATEMENT OF THE STATE DEBT FUND.(a)

Auditor's Report,	Received.	Paid Out.
To Nov. 30, 1850.....	\$ 165,788.81	\$ .....
From Dec. 1, 1850 to Nov. 30, 1852.....	492,166.53	395,467.96
From Dec. 1, 1852 to Nov. 30, 1854.....	701,220.99	545,140.80
From Dec. 1, 1854 to Nov. 30, 1856.....	1,113,413.14	908,820.46
From Dec. 1, 1856 to Nov. 30, 1858.....	1,387,553.92	1,244,084.69
From Dec. 1, 1858 to Nov. 30, 1860.....	1,192,010.07	1,466,260.45
From Dec. 1, 1860 to Nov. 30, 1862.....	148,083.11	640,462.21
From Dec. 1, 1862 to Nov. 30, 1864.....	589,128.94	4.50
From Dec. 1, 1864 to Nov. 30, 1866.....	1,406,484.68	1,264,020.63
From Dec. 1, 1866 to Nov. 30, 1868.....	1,669,168.80	1,489,837.25
From Dec. 1, 1868 to Nov. 30, 1870.....	1,637,975.39	732,367.03
From Dec. 1, 1870 to Nov. 30, 1872.....	1,105,401.80	2,587,982.83
Totals .....	\$11,608,396.18	\$11,274,630.81
Amount in Treasury in 1872.....		333,765.37
Total paid out and balance.....		\$11,608,396.18
(a) <i>Aud. Rept.</i> 1872, pp. xvii, xviii.		

The receipts of the Interest Fund were correspondingly large, amounting for the biennium ending December 1, 1854, to \$525,931, and for that ending December 1, 1856, to \$904,420. With such an income as this the state was able to resume complete interest payments even earlier than had been anticipated. In January, 1857, this was accomplished and an end put to the increase in the state debt through the cumulation of unpaid interest charges.<sup>60</sup>

Arrangements were made to fund the unpaid interest which had piled up before 1857. That which had fallen due before 1847 was to draw interest after 1857, while interest was allowed on the share which had gone unpaid between 1847 and 1857, after January 1, 1860.<sup>61</sup>

<sup>60</sup>*S. J.*, 20 G. A., 1 Sess., p. 14.

<sup>61</sup>*Treas. Rept.* 1856, p. 4; *L.* 1857, p. 104.

Now at last Illinois was once more financially respectable, meeting her legal liabilities in cash as they fell due, and holding out to her bond holders a reasonable expectation of repayment. On January 1, 1857, the net debt of the state was \$12,834,144, over four and a half million having been paid during the preceding four years.<sup>62</sup> As expressed in one of the ornate orations of the day, "The heavy debt, from the contemplation of which so many shrank back appalled, now presses no more heavily upon her energies than the curtain of the morning mist rests upon the bosom of her prairies."<sup>63</sup>

*The Illinois Central Payments.*

A source of revenue for debt payment which by 1857 was already of importance and which was destined to play a large part in the payment of the state debt was the Illinois Central Railroad contract. All railroads in Illinois were assessed under the general property tax except the Illinois Central which was taxed in a special manner because of special privileges granted to the railroad by the state. It is not within the scope of this study to make a detailed examination of the Illinois Central tax. Suffice it to say that in the early fifties the state assigned to the railroad considerable railroad property—salvage from the internal improvement project of 1837—and a princely grant of land which had been given to the state by Congress for the purpose. In return the company agreed to pay to the state a percentage of its gross receipts. The rate was to be five and later seven per cent. This was in lieu of all taxes.<sup>64</sup>

The returns from this contract began to reach the state treasury in 1855 and were devoted to debt payment. The amounts received from the tax during this period are shown in Table 7.

<sup>62</sup>*S. J.*, 20 G. A., 1 Sess., p. 12 *et seq.*

<sup>63</sup>Oration of Robert Bell, Esq., delivered at Fairfield, Illinois, quoted by Gerhard, *op. cit.*, p. 12.

<sup>64</sup>*Census*, 1880, VII, 625.

TABLE 7.

REVENUE FROM THE TAX ON THE GROSS EARNINGS OF THE  
ILLINOIS CENTRAL RAILROAD.(a)

## Two Years Ending

Oct. 31, 1856.....	\$107,383
Oct. 31, 1858.....	277,621
Oct. 31, 1860.....	309,662
Oct. 31, 1862.....	389,432
Oct. 31, 1864.....	705,909
Oct. 31, 1866.....	923,546
Oct. 31, 1868.....	872,405
Oct. 31, 1870.....	929,518

(a) Compiled from *Treas. Rept.* 1904, p. 28. Before 1857 the revenues represent five per cent of the gross earnings; after 1857, seven per cent.

But the direct financial return was not the greatest benefit conferred by the Illinois Central Railroad. Its services in developing the economic resources of the state, in inducing immigration and increasing taxable values, just at the time when such service was particularly needed to aid in the solution of the problem of debt payment can scarcely be overestimated.

Another source of debt payment, a non-tax source, however, was the State Land Fund, which consisted of the receipts from the sale of state lands. For a short time these amounted to considerable sums. Thus, during the two year period ending December 1, 1854, the receipts amounted to \$280,894, and during the following biennium to \$122,812. By 1856, however, practically all the lands had been disposed of.<sup>65</sup>

*Summary of the Sources of Debt Payment.*

From these sources, then, was the debt paid; (1) the receipts from the operation of the canal and from the sale of canal lands applied by the canal trustees to the canal indebtedness; (2) the State Debt Fund supplied from the twenty cent (two mill) tax on property in general; (3) the Interest Fund, supplied from a tax rate levied on property; (4) the Illinois Central fund, supported by the gross

<sup>65</sup>Only 6,458 acres remained. *Aud. Rept.* 1856.

earnings payments; (5) the State Land Fund, consisting of the receipts from the sale of state lands; (6) the Surplus Revenue Fund, consisting of left-overs, unexpended balances in the treasury, etc.; (7) borrowings from the school funds; and (8) various payments from the Revenue Fund whose chief support was the state rate levied on property. In addition the receipts to some of these funds were in the form of state indebtedness instead of cash. Certificates of indebtedness were received, for example, in payment for state lands.<sup>66</sup>

In 1857 and 1858 the debt was reduced \$1,166,877, so that in January, 1859, the amount outstanding against the state was \$11,138,454.<sup>67</sup> By December 1, 1860, this figure had been cut down to \$10,277,161.<sup>68</sup> But now the rate of taxation, probably because of the financial depression, became the object of bitter complaint.<sup>69</sup> A committee appointed by the legislature reported in 1859 that the taxes were "more onerous than is favorable to the growth of a new state, whose resources are developed by that class of population upon which they bear most heavily, and who will and do shun our borders in consequence of their existence."<sup>70</sup> The most attractive point of attack for those who desired a reduction in the rates was the twenty cent rate for the State Debt Fund. The dissatisfaction of the bond holders with this tax has already been noted.<sup>71</sup> The inconvenience of surrendering their securities annually to receive the dividend due them was so great that many persons simply refrained from presenting them. This made it appear that the tax was being needlessly assessed.

It has been decided to use the unclaimed portion of the State Debt Fund in purchasing state bonds in the open market. But the rise in the market value of the securities

<sup>66</sup>*Ibid.* 1850, p. 20.

<sup>67</sup>*S. J.*, 21 G. A., 1 Sess., p. 18.

<sup>68</sup>This did not include the MacAllister and Stebbins claim. *Repts.*, 22 G. A., 1 Sess., p. 5.

<sup>69</sup>*Aud. Rept.* 1858, p. 5.

<sup>70</sup>*G. A. Repts.*, 21 G. A., 1 Sess., I, 294.

<sup>71</sup>*Supra*, p. 96 *et seq.*

made this course inadvisable. Bonds could only be bought at a considerable premium.<sup>72</sup> A bill introduced in 1859 to suspend the collection of the twenty cent tax failed to pass.<sup>73</sup> But in 1861 when it developed that less than three per cent of the fund collected during the two preceding years had been called for by the bond holders, that the Revenue Fund was empty, and that the assessed value of property had decreased, the legislature held back no longer. The preamble of the law, as passed, reads:

Whereas, our present financial condition requires that provision be made for an increase in the Revenue Fund, while a just regard for the interests of our state and the prosperity of her people imperatively demands that such provision shall be made without increasing, but on the contrary, if possible, by diminishing our present heavy rate of taxation, the collection of the twenty cent tax was declared suspended for the years 1861 and 1862 and the balance in the State Debt Fund, amounting to more than \$500,000 was turned over to the Revenue Fund.<sup>74</sup>

### *Finances During the Civil War.*

Even while these arrangements were being made, the financial problems of the Civil War presented themselves for consideration. In the next two years the bonded debt was increased by a \$2,000,000 issue for war purposes, a \$50,000 issue for revenue purposes, a \$65,000 issue for the Normal University, and \$182,000 for the settlement of the "Thornton loan." These amounts, with the outstanding indebtedness on December 1, 1860, brought up the funded debt to \$12,574,161.36.<sup>75</sup>

Practically nothing was done toward the reduction of the funded debt before 1863, but by December 1, 1864, payments from the canal trustees and from the Illinois

<sup>72</sup>*Aud. Rept.* 1858, p. 5.

<sup>73</sup>*G. A. Repts.*, 21 G. A., 1 Sess. I, 293 *et seq.*

<sup>74</sup>*L.* 1861, 1 Sess., p. 208 *et seq.* The constitutionality of this measure seems to have been the subject of difference of opinion. *Cf.* *Repts.* of Senate Committee on Finance.

<sup>75</sup>*S. J.*, 23 G. A., 1 Sess., p. 26. To pay interest on the war debt, the auditor levied a tax of five cents on the one hundred dollars valuation. *Ibid.* 1863, p. 11 *et seq.*

Central Railroad, the only sources for debt liquidation since the suspension of the State Debt Fund levy, had brought this sum down to \$11,246,210.<sup>76</sup>

The war bonds sold at a discount, only \$1,767,395 being realized for the \$2,000,000 issue. The state may be considered a loser to the extent of this discount. However, a large share of the proceeds from the bond sale was used to discharge the direct tax levied by the United States on real estate. The state paid an assessment of \$1,146,551.33 with \$954,568.67, being able to take advantage of the fifteen per cent discount allowed where the states paid the money directly.<sup>77</sup> The total claim of the state against the United States government on account of the war amounted to \$3,812,525.54. These claims were met promptly, \$1,841,129.08 having been refunded to the state by 1863 and practically the entire amount by 1865.<sup>78</sup> On the whole, the war was far from a serious financial catastrophe to the state government. The money cost was probably not much more than a half million dollars; but this does not take into consideration the direct tax assumed by the state.<sup>79</sup> General economic conditions were very satisfactory indeed during these years. "As a state, notwithstanding the war," said the governor in his message of 1865, "we have prospered beyond all former precedents."<sup>80</sup> Assessed values of taxable property decreased somewhat, but in the opinion of the state officials these declines find an explanation in undervaluation rather than in a true shrinkage of value.<sup>81</sup>

This decrease in the tax base was the cause of an important change in the machinery of taxation. The assessments were characterized by the governor in his message of 1863 as "absurdly low" and "in many cases very vari-

<sup>76</sup>The policy of buying bonds in the open market was definitely abandoned in 1863. *L.* 1863, p. 76; *S. J.*, 23 G. A., 1 Sess., p. 11 *et seq.*

<sup>77</sup>*Ibid.*

<sup>78</sup>The amount of unsettled claims in 1865 was \$85,732.67. *Ibid.*, 24 G. A., 1 Sess., pp. 45, 46.

<sup>79</sup>*Ibid.*, 23 G. A., 1 Sess., p. 11 *et seq.*

<sup>80</sup>*Ibid.*, 24 G. A., 1 Sess., p. 15 *et seq.*

<sup>81</sup>*Ibid.*, 23 G. A., 1 Sess., p. 11 *et seq.*; *Aud. Rept.* 1856, p. 5 *et seq.*

able." "The question arises," he said, "whether some measures may not be devised for the equalization of assessments throughout the state."<sup>82</sup> Beginning with 1863 the assessments show a steady increase annually, but there seems nevertheless to have been great undervaluation. In 1867 the governor testified that "in many parts of the state different persons are taxed 25, 50, and 100 per cent more, for the very same species of property, than other persons are in different counties, for property of the same kind. . . . Were the spirit and the intent of the law properly carried out, the assessments would be more than double what they are now."<sup>83</sup>

The auditor and governor joined in recommending the establishment of a state board of equalization,<sup>84</sup> and their recommendation was accepted by the legislature.<sup>85</sup>

#### *The State Board of Equalization.*

Under the provisions of the act the governor was to appoint one member from each senatorial district (there were twenty-five at this time) and these with the auditor were to compose the board. The appointed persons were to be supplanted by members chosen at the elections to be held in 1868. The term was fixed at four years. The members were paid eight dollars per day plus mileage at the rate of ten cents per mile. At first the sessions were limited to fifteen days. In 1869 the time was extended to thirty days.<sup>86</sup>

The board was to assemble at the state capitol annually and after examining the abstracts of property assessed in the various counties, was to equalize them "by directing to be added to the amount of property so assessed in each county, or to be deducted therefrom, such rate per cent as said board may deem equitable." But the board could not reduce the aggregate amount of property assessed in the

<sup>82</sup>S. J., 23 G. A., 1 Sess., p. 14.

<sup>83</sup>*Ibid.*, 25 G. A., 1 Sess., p. 17.

<sup>84</sup>*Ibid.*; *Aud. Rept.* 1866, p. 6.

<sup>85</sup>L. 1867, 1 Sess., p. 105.

<sup>86</sup>L. 1869, p. 353.

state. Annual assessments of real estate were restored in all counties. The clause specifying more in detail the manner in which the assessments were to be equalized, reads as follows:

In equalizing the value of personal property in the several counties, said board shall cause to be added together the average values of each kind of domestic animals and enumerated articles in each county, and the sum so obtained as compared with the added general averages of the same items throughout the state, shall be held by such board to indicate the proportion which the whole assessment of personal property in each county bears to the whole assessment of personal property throughout the state; and said personal property shall be equalized by said board in the manner hereinafter provided for equalizing real property. Real property shall be equalized by adding to the aggregate assessed value thereof in every county in which said board may believe the valuation to be too low, such per centum as will raise the same to its proper proportionate value, and by deduction from the aggregate assessed value thereof in every county in which said board may believe the valuation to be too high, such per centum as will reduce the same to its proper value. When the relative valuations of real and personal property shall have been considered separately, said board shall combine the results in such manner as may be deemed equitable, and determine a uniform rate per cent to be added or deducted from both classes of property in each county, which rate per cent shall in all cases be even and not fractional; Provided, that nothing herein contained shall be construed as interfering in any manner with the laws now in force in regard to the equalization of assessments as between the different townships by the board of supervisors in counties adopting the township organization.

By an amendment passed in 1869 the board was to consider separately the following classes of property: lands, town and city lots, railroad property, and personal property.<sup>87</sup>

### *Computation of the Tax Rate.*

In 1867, moreover, the present-day method of computing the tax rate was introduced.<sup>88</sup> After the equalization had been accomplished the auditor was to compare the total amount of the equalized assessment with the total amount of the appropriations made by the legislature and of the other demands upon the treasury and to strike a

<sup>87</sup>*Ibid.*, pp. 352, 353.

<sup>88</sup>L. 1867,<sup>o</sup> 1 Sess., p. 105 *et seq.*

percentage. This percentage was to be the state rate, which was then to be certified to the local authorities.

The operation of this method resulted at first in considerable variations in the rate from year to year. The rate levied for revenue purposes in 1866 had been twelve cents. For the first year under the new plan, 1867, the rate was twenty-five cents; in 1868 it dropped to fifteen cents; in 1869 it was eighty cents. The rates for 1870, 1871, and 1872 were, respectively, twenty-five, fifty-five, and thirty-five and three-tenths cents. This irregularity was due to the heavier expenses which were met in legislative years. Much of this variation from year to year has now been eliminated.<sup>89</sup>

*Debt Payment, 1864-1872.*

During the late sixties great progress was made toward the liquidation of the debt; \$2,607,958.46 was paid from December 1, 1864, to December 1, 1866, leaving an outstanding debt of \$8,638,252.21 at the later date.<sup>90</sup> A reduction of about the same amount, \$2,687,114.01, was made during the next biennium, the debt on December 1, 1868, being \$5,988,453.53. There had been an increase of \$50,000 in 1867, a bond issue for the penitentiary.<sup>91</sup> The rate for interest purposes was reduced to twelve cents in 1867 and to ten cents in 1868. In 1870 it was done away with entirely. By December 1, 1870, the debt outstanding against the state was but \$4,890,937.30, and there had accumulated in the treasury to meet this debt, \$3,082,104.22.<sup>92</sup> It might well be true, as Governor Oglesby remarked in 1869, that the debt had "ceased to cause any general solicitude."<sup>93</sup> The receipts from the canal and from the Illinois

<sup>89</sup>A minor change in 1869 eliminated from the taxable list goods belonging to non-residents assigned to commission merchants for sale. *L.* 1869, p. 58.

<sup>90</sup>*S. J.*, 25 G. A., 1 Sess., p. 13 *et seq.*

<sup>91</sup>*Ibid.*, 26 G. A., 1 Sess., p. 11 *et seq.*

<sup>92</sup>*Ibid.*, 27 G. A., 1 Sess., p. 26 *et seq.*

<sup>93</sup>*Ibid.*, 27 G. A., 1 Sess., p. 11 *et seq.*

Central tax were great enough to justify the recommendation that the twenty cent state debt tax be repealed;<sup>94</sup> and this tax, which had been of such great assistance in paying off the debt was levied for the last time in 1870. On December 1, 1872, the bonded debt amounted to \$2,060,150.63. During the preceding two years \$3,080,786.67 had been paid, but a quarter of a million of revenue deficit bonds had been issued. These bonds were delivered to the city of Chicago as part payment of a debt of \$2,955,340 to the city, which the state at this time chose to assume. The municipality had advanced funds to assist in building the canal and had taken a lien on the canal as security. In sore need because of the devastating fire, Chicago was to some extent relieved by the state through the payment of this money. A tax of fifteen cents on the one hundred dollars was authorized for 1871 and 1872, the proceeds of which were to go to the city, along with the resources available from the Illinois Central Railroad Fund and the canal.<sup>95</sup> By November, 1872, nearly half of the debt to the city (\$1,378,307.68) had been discharged.

Thus by 1872, when the new revenue code was adopted, the state debt had ceased to be a factor. The amounts falling due were easily met, and by 1881 the state debt was declared entirely paid. At this time the proceeds from the Illinois Central Fund were transferred from debt payment purposes to the Revenue Fund. Only \$23,600 in bonds was outstanding, which should have been presented years before and on which interest had ceased to accrue.<sup>96</sup>

Before summarizing the foregoing discussion it is necessary to complete the treatment by a short description of the special methods used to tax banks, insurance companies, and railroads, and of the taxes levied for roads and schools.

<sup>94</sup>*Ibid.*, p. 14.

<sup>95</sup>*Aud. Rept.* 1872, pp. xi, xii.

<sup>96</sup>*L.* 1881, p. 25. Some of these bonds have been presented since. *Cf. ibid.*, p. 51; *L.* 1887, p. 58; *L.* 1889, p. 49.

*Taxation of Corporations.*

Little special effort was made before 1872 to tax corporations in any different manner than by the regular general property assessment. A law passed in 1851, however, prescribed that the shares of the capital stock of banks should be assessed as personal property, the value to be determined by the bank commissioners, and that the tax should be paid by the corporation and not by the individual stockholders.<sup>97</sup> The bank commissioners were directed by an act of 1853 to assess incorporated banks on the basis of notes and bills discounted. Stocks deposited by these incorporated banks with the state treasurer were to be taxed at the rate at which they were deposited.<sup>98</sup> In 1857 a law was passed which directed the president or cashier of a bank to list the capital stock of his institution to be taxed as other property. In valuing the stock he was to deduct the amount of the capital invested in real estate and list that separately. Surplus profits and reserve funds were also held to be taxable.

In 1867 the law was so changed as to shift the theoretical base of the tax from the corporation to the stock holders.<sup>99</sup> The value of the capital stock, minus the assessed value of the real estate owned by the bank, was assessed to the owners of the stock, wherever resident. The bank was required to furnish a list of its stockholders. Moreover it was responsible for the payment of the tax. This was accomplished through an arrangement whereby a part of the dividends, sufficient to cover the tax charges, were retained by the banks until notification was received that the taxes had been paid. As the plan actually worked out, of course, the bank assumed all responsibility and considered the tax a charge which had to be met before dividends were declared.

From 1843 until 1853 three per cent of their gross premium receipts was charged foreign life insurance com-

<sup>97</sup>L. 1851, p. 165 *et seq.*

<sup>98</sup>L. 1853, p. 3 *et seq.*; p. 35 *et seq.*

<sup>99</sup>L. 1867, 1 Sp. Sess., p. 6.

panies as a license fee.<sup>100</sup> Gross premium receipts were then made assessable under the general property tax, at the same rates as personal property.<sup>101</sup> This system remained in force until 1869, practically until the end of the period.

Special provision was made for the taxation of railways in an act of 1849. Railway property was to be listed with the auditor by some officer of the corporation and was to be taxed at the regular rates. The income from the taxes on railways was to go toward the extinguishment of the internal improvement debt.<sup>102</sup> No record can be discovered of any revenue collected under this law. In 1853 the entire plan of assessment was changed. The property of the railroad—real and personal property, money and credits—was to be listed in the regular manner with the assessors of the counties where the property was located. The value of the movable property was to be distributed among the local jurisdictions for assessment purposes, in proportion to the value of the real estate and fixed property in each.<sup>103</sup>

Under a law passed in 1855,<sup>104</sup> the return of railway property in counties under township organization was to be made to the county clerk, instead of to the assessor, and the clerk was to lay the return before the board of supervisors when they met to equalize the assessments. The board could accept or modify such return. In all counties the list was to be made up of four classes of property. The first was real property, consisting of a description and valuation of every parcel of real property owned by the railway. In the valuation of all the improvements except the track or superstructure were to be included. The second class, called fixed and stationary personal property, consisted of the length and value of main and side tracks and turn-outs and the value of the improvements at the stations where such stations

<sup>100</sup>L. 1842-43, p. 165.

<sup>101</sup>L. 1853, p. 3 *et seq.*; p. 35 *et seq.*

<sup>102</sup>L. 1849, 2 Sess., p. 30.

<sup>103</sup>L. 1853, pp. 3, 35 *et seq.* The same system was applied to telegraph companies.

<sup>104</sup>L. 1855, p. 35 *et seq.*

were not part of city or town lots. The third class consisted of rolling stock, called "personal property." Finally, the fourth class included all other personal property of the railroad. The length of the whole of the main track in the state and the total value of the rolling stock were also to be given. The rolling stock was to be distributed according to a new plan, *viz.*, in the proportion which the length of the main track in the jurisdiction bore to the whole length of the road. All other property was to be taxed where located.

*Taxation for Roads and Schools.*

The poll tax continued to be the main support of the roads. By the act of 1841<sup>105</sup> authority was given to require from one to five days of service on the roads. But a supplementary tax on property was also provided. The maximum of this tax varied: it was ten cents on each one hundred dollars of valuation in 1841; twenty-five cents in 1843,<sup>106</sup> and twenty cents in 1845.<sup>107</sup>

Road taxes were levied by the counties until 1849 when that function was surrendered to the townships in the counties which elected to organize under the township system. For each township organized, highway commissioners were elected. Use was made of both the poll tax and the tax on property. All taxable property was levied upon for road purposes with this exception, that for ten years, 1851-1861, only real property was available for this purpose.<sup>108</sup> From 1851 to 1867 the maximum levy on property for road purposes was twenty cents on the one hundred dollars of taxable property; after 1867 the limit was forty cents.

Before 1869 any tax payer who desired to do so could "work out" his property tax on the roads.<sup>109</sup> After 1869,

<sup>105</sup>L. 1840-1, p. 237.

<sup>106</sup>L. 1842-3, p. III.

<sup>107</sup>L. 1844-5, p. 79.

<sup>108</sup>L. 1851, p. 66.

<sup>109</sup>At first his labor for an eight hour day was valued at only \$0.62½. This amount was increased to \$0.75 in 1851, but it remained at that figure until the end of the period, 1872.

however, the township determined by a majority vote whether the labor system should be used at all.<sup>110</sup>

Non-residents, of course, could not be compelled to labor on the roads. But under the first township organization act their land was subjected to a special levy to compensate for the poll tax imposed upon residents. The charge upon his land was so planned that each non-resident had to provide one day's road labor for each \$300 worth of land.

The practice, now so common in Illinois, of vesting independent boards with taxing powers, was not highly developed during the debt payment period. The best example is that accorded by the boards which levied taxes for school purposes. The first levies of this kind seem to have been made in 1855. School taxes before that time were authorized by special vote of the people, and collected by a special collector. The distinctive taxing authority has always been the board of school directors, or in cities, the board of education, such a board being provided for each school district.<sup>111</sup> The law of 1855 gave power to these boards to determine the sum necessary to maintain the schools for six months.<sup>112</sup>

The law of 1857 put no limit on the taxing power of the boards when the receipts were to be used for ordinary expenses<sup>113</sup>; but when money was needed for such purposes as purchasing buildings and grounds and for extending the school term beyond six months, a majority vote of the electors was necessary to levy the tax.

#### *Summary and Criticism.*

In the foregoing pages an attempt has been made to tell briefly the story of the payment of the state debt. As has been seen, the state learned the joy of spending bor-

<sup>110</sup>L. 1869, p. 406.

<sup>111</sup>An exception should be noted; the Board of Township School Trustees for two years, 1855-57, were empowered to levy a deficiency tax. L. 1855, p. 79.

<sup>112</sup>L. 1855, p. 51 *et seq.*

<sup>113</sup>L. 1857, p. 274.

rowed money before it had learned the terrors of heavy taxation. Before 1838 the rates of taxation were almost insignificant, and the methods of assessment and collection were extremely crude. Under the pressure of necessity, the tax system was improved until in 1853 it approximated very closely the code of 1872 which is still in force to-day.

The changes in the tax laws began in 1839 when the rough classification of lands into grades for taxation purposes was replaced by a plan which assessed land at its true value. Taxable property was more closely defined and personal property was made taxable for state as well as local purposes. The assessor was to make personal visits upon property owners and was authorized to administer oaths.

A backward step was taken in 1841 when a law was passed fixing a minimum valuation of land. Moreover, a law passed two years later reverted to some of the antiquated assessment and collection methods of the previous period. But laws passed in 1845 and 1849 set all these matters right again.

The general property tax was prescribed in the constitution of 1848, a tax was imposed for debt payment, and a township system of organization was provided for such counties as desired it. Some modifications were made in the statutes to accommodate them to the new constitution. But a thorough revision of the code was not made until 1853.

If to the code of 1853 one adds an oath requirement, the railway tax law of 1855, and the sections dealing with the state board of equalization, the result would closely resemble the present tax code of the state. The description of taxable property and the general processes of assessment and collection are strikingly similar. It was under the provisions of this law of 1853 that the people of Illinois raised such enormous sums for debt payment.

Before 1848, when the new constitution was drafted, the state was in no position to raise large sums by taxation. Only the remarkable economic development of the state in

the thirty years under discussion made the payment of the debt possible. It can not be too strongly stated that there was no magic in the manner in which the debt was cleared away. The general property tax was helpless in the early forties and had to wait until economic conditions reached the stage where large levies might safely be made. Between 1840 and 1870 the population increased five hundred per cent (from 476,183 to 2,539,891). In 1850 the state contained only one-third as many people as in 1870 (851,951). In 1850 Chicago contained 29,963 persons; in twenty years it increased ten-fold.<sup>114</sup>

The assessed values of taxable property, in spite of the fact that they are much smaller than they should be, tell the same story of remarkable expansion. Table 8 shows the local assessments year by year.

TABLE 8.(a)  
LOCAL ASSESSMENTS, 1839-1872.

1839.....	58,889,525	1856.....	349,951,272
1840.....	58,752,168	1857.....	407,477,367
1841.....	70,166,053	1858.....	403,140,321
1842.....	72,605,424	1859.....	366,702,053
1843.....	72,416,800	1860.....	367,227,742
1844.....	75,747,765	1861.....	330,823,479
1845.....	82,327,105	1862.....	312,924,349
1846.....	88,815,403	1863.....	331,999,871
1847.....	92,406,493	1864.....	356,877,837
1848.....	102,132,193	1865.....	392,327,906
1849.....	105,432,752	1866.....	410,894,993
1850.....	119,868,336	1867.....	502,638,344
1851.....	137,818,079	1868.....	464,278,913
1852.....	149,294,805	1869.....	480,859,732
1853.....	225,159,633	1870.....	480,031,703
1854.....	252,756,568	1871.....	499,636,910
1855.....	334,398,425	1872.....	508,875,392

(a) J. A. Fairlie, *Report on the Taxation and Revenue System of Illinois* (Danville, Illinois, 1910), pp. 202, 203.

From the data presented in this table and the census figures given above it would appear that the assessed value of taxable property increased twice as fast as population.

<sup>114</sup>*Census of 1850*, p. 701; *Census of 1870, Population and Social Statistics*, pp. 23, 110.

TABLE 9.  
STATE TAX RATES, 1839-1872.

Date	Revenue Cents	Interest Cents	Insane Hosp. Cents	State Debt. Cents	Blind Asylum Cents	School Fund Cents	War Interest Cents	Canal Redempt- tion Fd. Cents	Total Cents
1839	20	....	....	....	....	....	....	....	20
1840	20	....	....	....	....	....	....	....	20
1841	20	10	....	....	....	....	....	....	30
1842	15	....	....	....	....	....	....	....	15
1843	20	....	....	....	....	....	....	....	20
1844	20	....	....	....	....	....	....	....	20
1845	20	10	....	....	....	....	....	....	30
1846	20	15	....	....	....	....	....	....	35
1847	20	15	2	....	....	....	....	....	37
1848	20	15	2	....	....	....	....	....	37
1849	20	15	2	20	1	....	....	....	58
1850	20	15	2	20	1	....	....	....	58
1851	20	15	3 $\frac{1}{3}$	20	2	....	....	....	60 $\frac{1}{3}$
1852	20	15	3 $\frac{1}{3}$	20	2	....	....	....	60 $\frac{1}{3}$ *
1853	10	15	3 $\frac{1}{3}$	20	1	....	....	....	49 $\frac{1}{3}$
1854	10	15	3 $\frac{1}{3}$	20	1	....	....	....	49 $\frac{1}{3}$
1855	12	15	....	20	....	20	....	....	67*
1856	12*	15	....	20	....	20	....	....	67
1857	12*	15	....	20	....	20	....	....	67*
1858	12	15	....	20	....	20	....	....	67
1859	12*	15	....	20	....	20	....	....	67*
1860	12	15	....	20	....	20	....	....	67
1861	*	15	....	....	....	20	5	....	40*
1862	*	15	....	....	....	20	5	....	40*
1863	12	15	....	20*	....	20	5	....	72*
1864	12	15	....	20	....	20	5	....	72*
1865	12	15	....	20	....	20	5	....	72
1866	12	15	....	20	....	20	3	....	70
1867	25	12	....	20	....	20	....	....	77
1868	15	10	....	20	....	20	....	....	65
1869	80	10	....	20	....	20	....	....	130
1870	25	....	....	20	....	20	....	....	65
1871	55	....	....	....	....	20	....	15	90
1872	35 $\frac{3}{10}$	4 $\frac{7}{10}$	....	....	....	20	....	15	75

\*No officer of the government took it upon himself to report regularly the rate of taxation levied each year. The information given above has been gathered from widely scattered sources—all official, however. No direct statement was found to the effect that the rates marked with the asterisks were actually levied. The data in these cases are based upon laws authorizing the levies. The total rate for 1852 is given as 60 $\frac{1}{3}$ . One statement was found which gave this rate as 60, but it is believed that this is a misprint. *Aud. Rept.* 1854, p. lxxv.

The rates levied upon this taxable property varied greatly during the period. Table 9 gives these rates so far as it has been possible to determine them. The rate for revenue purposes shows, until the later years, a tendency to decrease. It is in this rate that the greatest irregularities appear, due to its determination in the late years of the period on the basis of the appropriations made by the legislature. More or less complaint was made of the weight of the taxes all through the period, but particularly, as one would expect, during the years of industrial depression.

During this period the general property tax established its reputation. But its good name rests entirely upon a fiscal foundation. It succeeded in bringing large sums into the treasury, but this end was accomplished only at the cost of considerable injustice and inefficiency. All through the period the assessors found difficulty in reaching all property and assessing it at its real value. One who believes that complaints about the tax system are of recent origin, that they are hasty attacks of reformers upon an institution with a long and honorable history, will be quickly disillusioned if he reads the official documents of the debt-payment period. Property in general was undervalued fifty per cent in 1852. Moreover, there were great inequalities. "Property of equal value in adjoining counties was assessed at rates varying fifty per cent and in some cases even more."<sup>115</sup>

The law of 1853 did not help matters much. "Either the law is not understood or it is not considered good authority," was the discouraged conclusion of the auditor, for in his opinion there could "be little doubt" that there was great undervaluation.<sup>116</sup> The following excerpt from the auditor's report for 1862 has a familiar ring:

I have learned of several instances where candidates for the office of assessor have openly offered, as an inducement to voters, that, if elected, they would assess property at rates less than its value. It has also been suggested to me that it is the practice of town assessors to meet

<sup>115</sup>*Aud. Rept.* 1854, p. 5.

<sup>116</sup>*Ibid.* 1856, p. 5.

and agree on fixed uniform rates for valuing each description of property taxed, without regard to the lands or other property listed.<sup>117</sup>

In 1866 the valuations were declared by the auditor to be "manifestly below the actual worth of the property."<sup>118</sup> In spite of the efforts of the state board of equalization, undervaluation persisted to the very end of the period. In 1870 the assessment of property did "not exceed . . . one-quarter of its actual value."<sup>119</sup>

In addition to the undervaluation and inequality, the assessment was marked by a considerable degree of irregularity. The case of the refusal of the officers in various counties to assess property under the act of 1837 has already been noted.<sup>120</sup> Less serious disturbances and delays are referred to in almost every volume of the session laws.<sup>121</sup> In 1846 the auditor complained that at least one-half the assessors did not complete their assessment within the period required by law.<sup>122</sup> Tardiness and irregularity in assessments involved irregularities in collection and difficulties in tax sales.<sup>123</sup> In addition there seems to have been considerable dishonesty among collectors. In 1850, the auditor complained about "the large amount lost annually by defalcation of collectors."<sup>124</sup>

In spite of poor administration the tax system proved equal to the strain laid upon it in the debt-payment period. Even with the complications of the Civil War the system emerged with a good record as a revenue producer. But the highest praise which can fairly be given the general property tax in this, the most successful period of its existence, is to say that it was a system which fitted in a rough and ready fashion the rather crude economic conditions of the time.

<sup>117</sup>*Ibid.* 1862, p. 5.

<sup>118</sup>*Ibid.* 1866, p. 6.

<sup>119</sup>*Ibid.* 1870, p. 4.

<sup>120</sup>*Supra*, p. 82.

<sup>121</sup>*Cf.*, L. 1842-43, p. 14; L. 1849, 1<sup>st</sup> Sess., p. 121; L. 1853, p. 236 etc.

<sup>122</sup>*Aud. Rept.* 1846, p. 38.

<sup>123</sup>*Cf.*, *ibid.*, 1848, p. 15; *ibid.*, 1850, p. 2; L. 1844-45, pp. 163, 183, 199; L. 1846-47, p. 75 *et seq.*

<sup>124</sup>*Aud. Rept.* 1850, p. 23; *cf.*, L. 1842-43, pp. 68, 239.

## D. THE PRESENT-DAY PERIOD, 1872-1913

### CHAPTER VII

#### TAXABLE PROPERTY IN GENERAL AND ITS ASSESSMENT

In 1910 Illinois with 5,638,591 people was the third state in the union in population; in 1870 it had less than half that number (2,539,891). In the importance of its manufactures it was surpassed only by New York and Pennsylvania, but the rate of increase in Illinois has been greater than either of these states. Between 1902 and 1909 the state has pushed from sixth to second rank in mining.<sup>1</sup> A few facts such as these are sufficient to show clearly that the problems of Illinois are no longer the problems of a thinly settled, agricultural community. Commerce and industry have developed and have earned for themselves places beside agriculture. Moreover, Chicago, with less than 300,000 inhabitants in 1870, has grown to be the second city in the United States and her growth has raised problems for Illinois which can scarcely be matched by those in any other state. Within one hundred years this whole development has come about. A century ago there were no cities, no mines, no commerce, no manufactures, and almost no population. During this entire time the principle of the general property tax has been in force. How slight were the modifications made in the system must have been impressed upon any one who has read the foregoing pages. The origin of the system and its adaptation to the needs of the trying period of debt payment have been described. It remains to show to what extent the present code, arrived at after a slow, evolutionary process, and established in almost exactly its present form, over forty years ago, has met the needs of this new industrial state.

<sup>1</sup>*Thirteenth Census, Abstract*, p. 543.

The revenue law in force in the state was formulated in 1872. It rests upon the foundation laid by the revenue section of the constitution of 1870. The law has been modified in a number of particulars during the last forty years, especially in 1898, when the assessment arrangements were given an overhauling, but it has never been supplanted by a new general law.<sup>2</sup> When it was introduced in 1872 it was not, in many particulars, a new law; it was for the most part merely a codification of statutes already existing. Certainly such a codification was needed, for it appears from the repealing clause that the new measure replaced nearly fifty old acts of the legislature.<sup>3</sup>

The movement for a new revenue law in 1872 seems to have found its source in the state board of equalization, which as a fountain of reform suggestions has long since gone dry. In taking up its duties in 1867 the board found the existing code to be inadequate and ineffective. In 1868 resolutions were passed recommending a revision of the law.<sup>4</sup> Three years later the revenue measure, drawn up by the chairman and secretary of the board, was laid before the General Assembly. While under consideration it was actively supported by the board and upon its adoption, the board did not hesitate to assume credit and responsibility for the new law.<sup>5</sup>

#### CONSTITUTIONAL PROVISIONS.

Although the new law was passed soon after the adoption of the constitution of 1870 it can not be said to have been made necessary by the constitution; for the revenue article in the new constitution did not differ greatly from that of the constitution of 1848.

The necessary state revenue was to be obtained, as under the old constitution, by a tax which should fall upon the owners of property in proportion to the value of

<sup>2</sup>L. 1898, p. 36.

<sup>3</sup>L. 1871-72, p. 69.

<sup>4</sup>*Proceedings of the State Board of Equalization*, 1868, p. 81.

<sup>5</sup>*Ibid.*, 1867, pp. 37-39, 58, 59; 1870, Oct. 7 to Oct. 27; 1872, p. 61.

the property owned. No provision, it was true, was made for a capitation tax. The list of "pedlars, auctioneers, etc.," who could be taxed in such manner as the assembly should direct, was augmented by the addition of liquor dealers, insurance, telegraph and express interests or business, vendors of patents, and corporations owning or using franchises or privileges; but a specification was added that such taxes should be levied by general law and be made uniform as to the class affected. The exemption clause was made more specific; property "used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes," might be relieved of tax charges. Some modifications were made in the provisions regulating tax sales and redemption, making them more general. The General Assembly was forbidden to release any local body from its share of the state tax.<sup>6</sup> All taxes levied for state purposes were to be paid into the state treasury. A tax limit of seventy-five cents on the hundred dollars valuation was imposed upon counties, exception being made in case the tax was levied to pay debts previously contracted. A higher rate might be levied, however, upon vote of the people. A debt limit of five per cent of the assessed valuation was placed upon all local bodies; and such bodies, when incurring a debt in the future, were required to make provision for the accumulation of a repayment fund through direct taxation.<sup>7</sup> Local improvements might be paid for "by special assessments or by special taxation of contiguous property or otherwise."

#### PROPERTY TAXED AND EXEMPTED.

The general statement of property subject to taxation in Illinois since 1872 reads as follows: first, all real and personal property in this state; second, all moneys, cred-

<sup>6</sup>By an act passed in 1872, the legislature sought to bring about the condition of uniformity prescribed here. *L.* 1871-72, p. 753.

<sup>7</sup>This does not comprehend the amendment of 1890 for World's Fair bonds. *L.* 1890, p. 8.

its, bonds or stocks and other investments, the shares of stock of incorporated companies and associations, and all other personal property, including property *in transitu* to or from this state; third, the shares of capital stocks of banks and banking companies doing business in this state; and fourth, the capital stock of companies and associations incorporated under the laws of this state.<sup>8</sup>

This statement of taxable property has stood undisturbed during the entire forty years, except for one amendment in 1905 which exempted the capital stock of certain corporations but which was promptly declared unconstitutional.<sup>9</sup>

Of the property included in the foregoing statement the following classes have been designated by the General Assembly as exempt from taxation:<sup>10</sup>

*first*, school lands donated by the United States, not sold or leased and all property used exclusively for school purposes;<sup>11</sup> *second*; all property used exclusively for religious purposes, or used exclusively for school and religious purposes, and not leased or otherwise used with a view to profit;<sup>12</sup> *third*, all lands used exclusively as grave yards or grounds for

<sup>8</sup>L. 1871-72, p. 1.

<sup>9</sup>*Infra*, p. 201; L. 1905, p. 353; Consolidated Coal Co. v. Miller, 236 Illinois 149 (1908).

<sup>10</sup>The constitutional provision under which these exemptions have been made reads as follows:

"The property of the state, counties, and other municipal corporations, both real and personal, and such other property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery, and charitable purposes, may be exempted from taxation; but such exemption shall be only by general law. In the assessment of real estate encumbered by public easement, any depreciation occasioned by such easement may be deducted in the valuation of such property." Par. 3, Art. VIII, Constitution of 1870.

The language of the law of 1909 exempts all property belonging to schools, whether it is exclusively devoted to school purposes or not, provided that it is not used with a view to profit. The supreme court has declared this broad exemption unconstitutional. *The People v. Deutsche Gemeinde*, 249 Ill. 132 (1911).

<sup>11</sup>L. 1913, p. 511. In 1909 the wording was changed from that of the act of 1872. L. 1909, p. 309.

<sup>12</sup>The law of 1872 was slightly narrower than this. L. 1871-72, p. 1; L. 1909, p. 307. In 1905 residences used by persons devoting their entire

burying the dead; *fourth*, all unentered government lands; all public buildings or structures of whatsoever kind, and the contents thereof, and the land on which the same are located, belonging to the United States; *fifth*, all property of every kind belonging to the State of Illinois; *sixth*, all property belonging to any county, town, city, or village, used exclusively for the maintenance of the poor; all swamp or overflowed lands belonging to any county, so long as the same remain unsold by such county; all public buildings belonging to any county, township, city or incorporated town, with the ground on which such buildings are erected, not exceeding in any case ten acres; *seventh*, all property of institutions of public charity, when actually and exclusively used for such charitable purposes, not leased or otherwise used with a view to profit; and all free public libraries;<sup>13</sup> *eighth*, all fire engines or other implements used for the extinguishment of fires, with the buildings used exclusively for the safe keeping thereof, and the lot of reasonable size on which the building is located, when belonging to any city, village or town; *ninth*, all market houses, public squares or other public grounds used exclusively for public purposes; all works, machinery, and fixtures belonging exclusively to any town, village or city, used exclusively for conveying water to such town, village or city; all works, machinery and fixtures of drainage districts, when used exclusively for pumping water from the ditches and drains of such district for drainage purposes;<sup>14</sup> *tenth*, all property which may be used exclusively by societies for agricultural, horticultural, mechanical and philosophical purposes, and not for pecuniary profit.

In 1905 the following section was added,<sup>15</sup> but the exemption was declared unconstitutional:<sup>16</sup>

time to church work were exempted (*L.* 1905, p. 357) but the act was declared unconstitutional. *Consolidated Coal Co. v. Miller*, 236 Ill. 149 (1908). An amendment to the general incorporation law in 1889 restricted the amount of land a religious corporation could acquire to twenty acres, only ten of which were to be exempt from taxation. *L.* 1889, p. 94.

Trust funds, the incomes from which were devoted to cemetery improvement, ornamentation, etc., were exempted in 1889. *Ibid.*, p. 63. By a law passed in 1895, cemetery associations were restricted in their acquisition of land to an amount necessary for burial purposes. *L.* 1895, p. 81. A law passed in 1903 provided that cemetery associations to be exempt must pay no dividends. *L.* 1903, p. 90.

<sup>13</sup>The wording of this section was slightly changed in 1909. *L.* 1909, p. 309. The statement of the exemption of library property was amplified in 1891. *L.* 1891, p. 157.

<sup>14</sup>The addition of the property of drainage districts was made in 1913. *L.* 1913, p. 511.

<sup>15</sup>*L.* 1905, p. 357.

<sup>16</sup>*Supreme Lodge v. Board of Review*, 223 Ill. 54 (1906).

*eleventh*, all the money collected and on hand within this state of every kind and nature of fraternal beneficial societies and the subordinate lodges thereof which are organized and exist or admitted to do business under the laws of the State of Illinois, and used exclusively for the purposes of such societies, and not for pecuniary profit.

Unsuccessful also have been the repeated attempts to secure the exemption of the stock and notes of mutual building, loan and homestead associations. In 1887<sup>17</sup> it was declared by statute that since all money paid to such corporations was at once loaned and placed into taxable property, the shares of stock and notes "being simply evidence as to where such money has been placed, therefore such stock and notes shall not be subject to taxation." The courts declared the exemption unconstitutional.<sup>18</sup> In 1895 the legislature made the stock taxable but allowed a deduction for real estate owned by the corporation. In 1901 another attempt was made to exempt the stock. "No stock of such association," the new proviso read, "while pledged upon by, and pledged as security to the association assuming it, to an amount equal to the par value of such stock, shall be subject to assessment." But when this law was tested in the courts it also was declared to be contrary to the constitution.<sup>19</sup>

The Illinois revenue law, then, defines taxable property in the most inclusive fashion. Property of every description is included within its scope. Only the most meagre exemptions are allowed by the constitution and, moreover, the courts construe the constitutional exemptions in the strictest manner.

<sup>17</sup>L. 1887, p. 131; the same provision is included in the law of 1891. L. 1891, p. 89.

<sup>18</sup>Loan and Homestead Association v. Keith, 153 Ill. 609 (1894).

<sup>19</sup>In *re* St. Louis Loan and Investment Co. 194 Ill. 609 (1902). A law of 1872 exempted members of fire companies from the road tax and a law of 1895 provided that no taxes should be levied on teachers' pension funds. L. 1871-72, p. 455; L. 1895, p. 312.

## ASSESSMENT METHODS.

*State and Local Officials.*

Although, under the system in vogue, the greater part of the burden of assessing property falls upon the local authorities, a certain share of the responsibility is assumed by the state. To the local assessors is assigned the task of listing land, lots, improvements and personal property, both tangible and intangible; but in a few cases where, because of their limited jurisdiction and for other reasons, the local assessors have proved particularly inefficient, they have been relieved of the task of attempting to fix assessment values, and this function has been assigned to the state board of equalization. Thus, the assessment of "corporate excess" of corporations and the assessment of most railway property is made by this central authority. The assessment methods of the state board of equalization are considered in the treatment of railroad and corporation taxation and the local assessment receives detailed consideration where the topics of real estate and personal property assessment are discussed.<sup>20</sup> But before these special topics are taken up, the machinery of local assessment which is used indiscriminately in both the real estate and the personal property assessments will be sketched in general outline.

When counties are organized by the township system, the township is the unit for assessment purposes; where there are no townships, the county is utilized. The only exception is Cook County, where since 1898, in spite of its township organization, a special method has been used.<sup>21</sup> The officials of these local units assess the great bulk of the property which forms the base on which state taxes are levied, with the scantiest sort of supervision on the part of any central authority. The state auditor is required to prepare forms which are sent to the local officers, and gives his opinion and advice when asked to do so.<sup>22</sup> But

<sup>20</sup>*Infra*, pp. 138 *et seq.*, 166 *et seq.*, 200 *et seq.*

<sup>21</sup>*L.* 1898, p. 37. This phase of the law was sustained by the supreme court. *The People v. Comrs. of Cook County*, 176 Ill. 576 (1898).

<sup>22</sup>*L.* 1871-72, p. 64.

this constitutes the sum total of the state's interference with local officials. Effective oversight and criticism, such as is now provided in a number of states, is here entirely absent.

### *Valuation of Property.*

From 1872 to 1893 the statutes prescribed that all property should be assessed at its fair cash value.<sup>23</sup> In 1898 the legislature recognized the existing undervaluation by declaring that the assessed valuation for the purposes of taxation and limitation of indebtedness should be one-fifth of the full value.<sup>24</sup> Two columns were to be provided in the assessment books; one was to be headed "full value," and one-fifth of the amount appearing here was to be set down in the second column marked "assessed valuation." In 1909 this fraction was raised to one-third.<sup>25</sup> Theoretically, this scheme for distinguishing between the real and the assessed valuations has nothing to recommend it. As has been pointed out by one critic, it was invented by some "legislator, who argued that the tax payers would be more willing to make honest schedules if they could be fooled into the idea that they were paying taxes on only one-fifth of their property." Strange as it may seem, the local assessors do find the scheme of some practical value in that they can often persuade a man to raise the valuation on his property by explaining that he will be taxed on only one-third of what he declares anyway! Indeed the law itself seems to be drawn with the idea of deceiving the property owner by making him believe that in some manner this legalized undervaluation will result in lower taxes. Thus the explanatory notice which is printed on every schedule of personal property reads: "You are to give a full, fair cash value of the articles mentioned as well as the amount of money required to be returned. *Only* one-fifth of the several amounts will be taken and assessed

<sup>23</sup>*Ibid.*, pp. 2, 3.

<sup>24</sup>L. 1898, p. 36.

<sup>25</sup>L. 1909, p. 308 *et seq.*

for the purpose of taxation.”<sup>26</sup> The high tax rate necessitated by this legal undervaluation is often misunderstood by persons unfamiliar with the situation and in numberless cases has doubtless worked to the disadvantage of the state.

### *Local Assessors.*

In counties with townships, each township elects its own assessor.<sup>27</sup> Under the law of 1872 there was one assessor for each township. From 1894 to 1898 those townships which desired it and had a population of from 40,000 to 100,000 could have a board of three assessors in place of a single assessor, but this arrangement was discarded in 1898.<sup>28</sup> Since 1898 a county supervisor has been provided, in the person of the county treasurer *ex officio*, whose function is to oversee the work of the township assessors.<sup>29</sup> He assembles all the assessors annually for consultation and instructions as to the methods of assessment to be followed.

In the counties which are not organized under the township system, the county treasurer acts as county assessor,<sup>30</sup> and appoints deputy assessors.<sup>31</sup> For a short time the county assessor was appointed by the county board under the law of 1872 which stated that some person should be thus appointed to act as assessor until provision should be made by the legislature for the election of an assessor.<sup>32</sup> An act passed in 1873 brought about the present state of affairs where the county treasurer acts as assessor.<sup>33</sup>

<sup>26</sup>L. 1898, p. 36.

<sup>27</sup>In townships included within cities the city clerk acts as township assessor. L. 1901, p. 314.

<sup>28</sup>L. 1893, p. 73; L. 1895, p. 317; L. 1898, p. 36.

<sup>29</sup>*Ibid.*, p. 36; L. 1903, p. 295.

<sup>30</sup>L. 1898, p. 36; L. 1903, p. 299.

<sup>31</sup>L. 1871-72, p. 20. The provision of the act of 1898 which specifically allows county assessors to district their counties and appoint assessors was repealed in 1903. L. 1898, p. 96; L. 1903, p. 295.

<sup>32</sup>L. 1871-72, p. 20.

<sup>33</sup>*Revised Statutes*, 1874, p. 455.

The change in the manner of selecting assessment officials in Cook County came in 1898. The experience of electing assessors of townships had proved very unsatisfactory. Inefficiency was evident upon the face of the returns and corruption was freely charged.<sup>34</sup> It was in an attempt to remedy this condition that Cook County was made an exception and given different assessment officials from those of other counties organized by townships. The general supervision of the assessment is now entrusted to a board of five persons, one or two elected every second year for a term of six years. This board appoints deputy assessors for all townships in the county except those which lie, in part at least, outside of Chicago.<sup>35</sup>

The Cook County board of assessment is to a great extent subject to the supervision of the county board of review, consisting of three elected members. Thus the board of review must approve the compensation of assessors, the amount and the compensation of clerical help employed by the assessment board, as well as all appointments of deputy assessors.<sup>36</sup>

The general system of township assessors was sharply attacked in the report of the revenue commission of 1886.<sup>37</sup> The abolition of the system and the substitution of a county assessor elected for four years, with power to appoint deputies, was one of the commission's recommendations but it suffered the common fate of all the reform suggestions.

The compensation of the assessors varies with the size of the county. Since 1898 limits have been fixed in the statutes.<sup>38</sup> All assessors are bonded to a minimum of \$2,000 in Cook and to a maximum of \$500 in other counties, and each assessor must have two or more "sufficient sureties."

<sup>34</sup>S. E. Sparling, *Municipal History of Chicago* (Madison, Wis., 1898), p. 106; *Chicago Tribune*, Feb. 25, 1898; R. H. Whitten, "The Assessment of Taxes in Chicago," *Jo. Pol. Econ.*, V, 175.

<sup>35</sup>*L.* 1898, p. 36; *L.* 1899, p. 335; *L.* 1913, p. 509 *et seq.*

<sup>36</sup>*L.* 1899, p. 335.

<sup>37</sup>*Report of Revenue Commission*, 1886, pp. vi, vii.

<sup>38</sup>*L.* 1898, p. 295; *L.* 1903, p. 299.

Township assessors were formerly elected annually but in 1909 their term was lengthened to two years.<sup>39</sup> In counties without townships the term of the county treasurer, who is also the county assessor, was made two years by the law of 1873,<sup>40</sup> but this was changed to four years in 1881.<sup>41</sup>

The revenue law of 1872 required that all assessors take the regular oath prescribed for state officers by the constitution.<sup>42</sup> But the law of 1898 went further and provided the following special oath for assessors:

I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the State of Illinois, and that I will faithfully discharge all the duties of the office of assessor, deputy assessor, or supervisor of assessments (as the case may be), to the best of my ability; that I will without fear or favor appraise all the property in said county at its fair cash value, said value to be ascertained at what the property would bring at a voluntary sale in the due course of business and trade; and that I will assess said property when so appraised at one-fifth<sup>43</sup> of its said cash value; that I will cause every person, company, or corporation assessed to sign his, her, or its assessment schedule, and I will administer to each and every person so signing said assessment schedule the oath thereon, and return said schedule so signed and file the same with the county clerk.<sup>44</sup>

Special penalties were provided in 1898 for tax officials who failed to do their full duty. Threats to apply these penalties have been used to good effect as a club over the heads of negligent officials.<sup>45</sup> Guilty assessors, as well as other tax officers, may be fined for each offense from \$100 to \$5000 and imprisoned in the county jail for one year. They are also liable upon their bonds for damages in case the interests of any one have been injured by the misconduct.<sup>46</sup>

<sup>39</sup>*L.* 1898, p. 36; *L.* 1909, p. 470.

<sup>40</sup>*Rev. Stat.* 1874, p. 455.

<sup>41</sup>*L.* 1881, p. 62.

<sup>42</sup>*L.* 1871-72, p. 20.

<sup>43</sup>One-third by amendment of 1909, *L.* 1909, p. 308 *et seq.*

<sup>44</sup>*L.* 1898, p. 36.

<sup>45</sup>Notably in the Chicago Teachers' Federation case.

<sup>46</sup>*L.* 1898, p. 36.

*Return of Assessment Lists.*

The manner in which the local assessors proceed to do the actual work of listing property for taxation and how the assessments are equalized are considered in detail in another place.<sup>47</sup> Suffice it to say that after this part of the work is completed,<sup>48</sup> the assessors sum up their books and prepare statements of the detailed assessments contained therein. After they have verified their assessment books by an affidavit, all the documents are turned over to the county clerk, passing, on the way, through the hands of the county treasurer as county assessor or as supervisor of assessments.<sup>49</sup>

Before 1898 township assessments were subject to review by a town board. At present Cook County has a review by the county board of assessors before the formal review by the county board of review. In other counties the assessment receives its first review by the county board of review.

The county clerk makes an abstract of the county assessment and forwards it to the auditor for the use of the state board of equalization.<sup>50</sup>

*Publication of Assessments.*

In 1898, in the vain hope that publicity would prevent undervaluation, the law was so changed as to require the publication of the assessment lists. Newspapers were to be used for this purpose in all counties except Cook where pamphlets were to be printed and sent to all taxpayers.<sup>51</sup> In all counties except Cook, the assessment is published as soon as made, before review. Here the real estate assessment is not published until the changes made by the board of review can be included.<sup>52</sup>

<sup>47</sup>*Infra*, pp. 141 *et seq.*, 166 *et seq.*, 173 *et seq.*

<sup>48</sup>This must be done before June 10; previous to 1898, before July 10.

<sup>49</sup>*L.* 1871-72, p. 23; *L.* 1879, p. 244; *L.* 1881, p. 134; *L.* 1898, p. 36.

<sup>50</sup>*L.* 1871-72, pp. 23, 26; *L.* 1873-74, p. 57; *L.* 1879, p. 244; *L.* 1881, p. 134; *L.* 1898, p. 36.

<sup>51</sup>*Ibid.*, p. 45.

<sup>52</sup>*L.* 1905, p. 361; *L.* 1907, p. 499.

## CHAPTER VIII.

### THE ASSESSMENT OF PERSONAL PROPERTY.

#### THE PROCESS OF ASSESSMENT.

##### *Definitions and Deductions.*

Although the law clearly defines real estate, it gives no formal definition of personal property. It is evident from the description of real estate that land, "buildings, structures, and improvements, and permanent fixtures" are not considered personal property.<sup>1</sup> Moreover several types of property are specifically designated in the law as personal property; among these are money secured by deed, nursery-stock, franchises, accrued interest on exempted stocks and bonds, a purchaser's interest in exempted lands, gas mains and pipes, street railway tracks and roads and bridges owned by private companies.<sup>2</sup> The capital stock of corporations is also considered personal property under the revenue law. However the stock of corporations organized under the laws of Illinois, with certain exceptions, is assessed by the state board of equalization and this topic is treated elsewhere. The local assessor is supposed to list as personal property the value of the capital stock of the excepted corporations, *e. g.* "those organized for purely manufacturing and mercantile purposes or for either of such purposes, or for the mining or sale of coal, or for printing, or for the publishing of newspapers, or for the improving or breeding of stock."<sup>3</sup>

A more distinct conception of what the assessors attempt to list as personal property may be gained by reading the items in the schedule which must be filled out by every property owner. Under these thirty-six items fall

<sup>1</sup>*L.* 1871-72, p. 68.

<sup>2</sup>*Ibid.*, pp. 5, 6, 11.

<sup>3</sup>*Ibid.*, p. 2; *L.* 1905, p. 353.

all possible varieties of property, except those described as real estate. The schedule is as follows:

First, the number of horses of all ages, and the value thereof; second, the number of cattle of all ages, and the value thereof; third, the number of mules and asses of all ages, and the value thereof; fourth, the number of sheep of all ages, and the value thereof; fifth, the number of hogs of all ages, and the value thereof; sixth, every steam engine, including boilers, and the value thereof; seventh, every fire or burglar-proof safe, and the value thereof; eighth, every billiard, pigeon-hole, bagatelle, or other similar tables, and the value thereof; ninth, every carriage and wagon, of whatsoever kind, and the value thereof; tenth, every watch and clock, and the value thereof; eleventh, every sewing or knitting machine, and the value thereof; twelfth, every pianoforte, and the value thereof; thirteenth, every melodeon and organ, and the value thereof; fourteenth, every franchise, the description and the value thereof; fifteenth, every annuity and royalty, the description and the value thereof; sixteenth, every patent right, the description and value thereof; seventeenth, every steamboat, sailing vessel, wharf boat, barge or other water craft, and the value thereof; eighteenth, the value of merchandise on hand; nineteenth, the value of material and manufactured articles on hand; twentieth, the value of manufacturer's tools, implements and machinery (other than boilers and engines, which shall be listed as such); twenty-first, the value of agricultural tools, implements and machinery; twenty-second, the value of gold or silver plate and plated ware; twenty-third, the value of diamonds and jewelry; twenty-fourth, the amount of moneys of bank, banker, broker, or stock-jobber; twenty-fifth, the amounts of credits of bank, banker, broker, or stock-jobber; twenty-sixth, the amount of moneys of other than bank, banker, broker, or stock-jobber; twenty-seventh, the amount of credits of other than bank, banker, broker, or stock-jobber; twenty-eighth, the amount and value of bonds and stocks; twenty-ninth, the amount and value of shares of capital stock of companies and associations not incorporated by the laws of this state; thirtieth, the value of property such person is required to list as a pawn-broker; thirty-first, the value of property of companies and corporations other than property hereinbefore enumerated; thirty-second, the value of bridge property; thirty-third, the value of property of saloons, and eating houses; thirty-fourth, the value of household or office furniture and property; thirty-fifth, the value of investments in real estate and improvements thereon required to be listed under this Act; thirty-sixth, the value of all other property required to be listed.<sup>4</sup>

Several of the items of this schedule need explanation before they become intelligible. *Credits* are defined in the

<sup>4</sup>L. 1871-72, pp. 7, 8.

law as "every claim or demand for money, labor, interest, or other valuable things, due or to become due, not including money on deposit."<sup>5</sup> But *Credits of bank, banker etc.* are by no means coördinate with *Credits of other than bank, banker etc.* Bankers' credits are arrived at by the following method: from "the amount of checks or other cash items" (excluding money on hand or in transit and funds in the hands of others subject to draft) and "the amount of bills receivable, discounted or purchased, and other credits due or to become due, including amounts receivable and interest paid and unpaid," is subtracted "the amount of all deposits made with them by other parties" and "the amount of all accounts payable other than current deposit accounts."<sup>6</sup> Formerly the "amount of checks and other cash items" was taxed as moneys and was therefore not subject to deduction.<sup>7</sup>

The item of *Credits of other than bank, banker etc.*, is not the sum total of all the valuable claims of the taxpayers who are not in the banking business, for before a property owner sets down the amount of his credits, he is permitted to make certain deductions for debt.

The deductions allowed appear to be more substantial than they really are. In the first place deductions for debts can be made only from *credits*.<sup>8</sup> Debts can not be used to offset any other property on the assessment roll. Unless a man owns something which falls under the technical definition of a credit, he may be utterly bankrupt with debts and yet unable to secure a deduction from his assessment. Moreover, not all debts are considered valid for deduction purposes; the law specifies that no deduction shall be allowed on account of any obligations to insurance companies on premiums or policies, unpaid subscriptions to religious, charitable, and other societies, or unpaid installments on the capital stock of any corporation. Finally, not all credits, even, may be offset by debts; it is provided

<sup>5</sup>*Ibid.*, p. 68.

<sup>6</sup>*Ibid.*, p. 10; *L.* 1903, p. 294.

<sup>7</sup>*L.* 1871-72, p. 9.

<sup>8</sup>*Ibid.*, pp. 8, 9.

that no deduction shall be allowed from the amount of any bonds, stocks, or money loaned. Thus, after all the conditions have been met, little of importance except book-accounts for goods sold are legally subject to deduction for debt.

No one can find a theoretical justification for the policy pursued in Illinois in the deduction of debts. For example, money due in payment for a loan is a credit not subject to deduction. Money due in payment for goods sold is a credit also, but is subject to deduction. Such distinctions must base whatever justifications they may have on the ground of expediency. It is interesting to note that local tax officials say that these distinctions are not always observed in actual practice. Thus notes held in part payment for land are many times declared not subject to deduction for debts.

*Moneys of bank, banker etc.* are described as "the amount of money on hand or in transit," and "the amount of funds in the hands of other banks, bankers, brokers, or others, subject to draft."<sup>9</sup> Moreover, the figures appearing under the *Bank, banker etc.* items do not include the property of the state and national banks which are taxed in a different manner.<sup>10</sup> The other items of the schedule of personal property need no explanation.

### *Manner of Listing.*

Every person in the state is called upon annually to list his personal property.<sup>11</sup> When intangible personal property is to be assessed, self-assessment seems almost inevitable. The only type of personal property which the assessor attempts to reach without the aid of a confession by the individual property owner, is the stock of the state and national banks. A particularly archaic provision to continue upon the statutes of a woman suffrage state is that which provides that the property of a wife shall be listed "by her husband, if in sound mind; if not, by herself."

<sup>9</sup>*Cf. supra*, pp. 128-129.

<sup>10</sup>*Infra*, p. 212.

<sup>11</sup>*L.* 1871-72, p. 3.

Since 1898, property has been listed in April and May, with reference to the amount owned on April first.<sup>12</sup> Formerly the assessments had been made one month later, during May and June.<sup>13</sup>

The general rule that personal property is listed where the owner resides is not adhered to in all cases.<sup>14</sup> Thus the capital stock and franchises of corporations are taxed where the principal office is located; in case the owner of live stock or other personal property connected with a farm does not reside on it, such property is listed where the farm lies rather than where the owner lives; a purchaser's interest in exempted lands is taxed where the lands are situated; water craft are taxed where licensed; property of companies such as banks, bankers, brokers, stock-jobbers, etc., is assessed where their business is carried on;<sup>15</sup> Illinois life insurance companies are taxed where, according to the articles of incorporation, their principal office is located, unless another place has been chosen;<sup>16</sup> gas mains and pipes, street railway tracks, roads and bridges are taxed where laid or located; the property of stage, express, or transportation companies is taxed where usually kept.

To secure the listing of personal property the law provides that the assessor call upon each resident of the state during the assessment period, and require him to fill out and sign an itemized schedule.<sup>17</sup> In case of sickness or absence at the time of the call, a blank is left which is to be filled out and returned to the assessor. If, for any reason, a person fails to fill out this schedule, he must submit to taxation on the basis of a statement made out by the assessor according to his best judgment and information.<sup>18</sup>

<sup>12</sup>L. 1898, p. 36.

<sup>13</sup>L. 1871-72, p. 3.

<sup>14</sup>*Ibid.*, pp. 4, 5, 6.

<sup>15</sup>L. 1905, p. 356.

<sup>16</sup>*Ibid.*

<sup>17</sup>L. 1871-72, pp. 2, 21. For this schedule see *supra*, p. 139.

<sup>18</sup>*Ibid.*, p. 22.

*Oaths and Penalties.*

Before 1879 the law permitted, and since 1879 it has required that the assessor administer an oath to every person making out a schedule.<sup>19</sup> He may also examine under oath any person whom he may suppose to have knowledge of the personal property of any one who refuses to fill out his schedule.<sup>20</sup> Finally, a special oath is prescribed in cases where debts are presented to counterbalance credits.<sup>21</sup>

The assessor is supported by elaborate penalties in his task of securing the listing of personal property. Since 1879, it has been the law that fifty per cent shall be added to the assessor's estimate of the property of the person who refuses to make out a schedule.<sup>22</sup> Moreover, refusal to schedule such property was made a misdemeanor punishable by fine. If a person swears falsely he is to be prosecuted for perjury.<sup>23</sup> In case property is discovered which has been escaping taxation in the past, back taxes with ten per cent interest are to be collected.<sup>24</sup> By the law of 1898 the person who turns in a false or fraudulent statement with the intention of defeating or evading the law renders himself liable to the heavy punishment of a fine of \$5,000 and imprisonment for one year.<sup>25</sup> As a spur to the zeal of the state's attorney in prosecuting such cases, a special

<sup>19</sup>*Ibid.*, p. 8; L. 1879, p. 252.

<sup>20</sup>L. 1871-72, p. 21.

<sup>21</sup>*Ibid.*, p. 9.

<sup>22</sup>L. 1879, p. 252; L. 1898, p. 36.

<sup>23</sup>L. 1871-72, p. 8.

<sup>24</sup>*Ibid.*, pp. 64, 65. The force of this section was partly overcome by a decision of the supreme court in 1885. *Allwood v. Cowen et al.* 111 Ill. 481 (1885). It was held that in the case of credits, the assessor assumed a judicial position and that, therefore, his act could not be reviewed by another assessor in after years. But actually this judicial activity is only a simple arithmetical calculation. Every person who desires a deduction for debt must list both his debts and credits; the assessor merely subtracts the one from the other. Cf. *The People v. Sellars*, 179 Ill. 170 (1899).

<sup>25</sup>L. 1898, p. 51. By a law of 1872 a lighter penalty was provided. L. 1871-72, p. 17.

fee of twenty dollars for each conviction together with ten per cent of all fines collected was allowed. Moreover, the board of review<sup>26</sup> has power to call witnesses, assessors or others, and to inquire of them as to the correctness of valuations. Special punishment of fine and imprisonment is provided for the assessor who breaks his pledge to assess all property according to the law, to compel every person to sign and swear to his schedule, and for the assessor who omits to list property or undervalues it.<sup>27</sup> A fine is prescribed also in cases where fraudulent statements of deductions are made.<sup>28</sup>

Surely it would be unreasonable to ask for more stringent regulations governing the listing of personal property than those provided in the code. Ample powers seem to be given the assessors to compel the property owners to declare their taxable goods. Oaths, fines, penalties, and powers of inquisition are supplied him; and if the assessment is not full and fair it would seem not to be the fault of the legislators who have provided the authority to the local administrative officers. A brief study of the revenue law is enough to convince anyone that the fault of whatever evil conditions may exist does not rest there. Either the system is an impossible one or the administrative officers, because of inefficiency, negligence, or cupidity, fail in their duty.

#### EFFICIENCY OF THE PERSONAL PROPERTY ASSESSMENT.

In considering the taxation of personal property, especially of intangible personal property, the discussion necessarily assumes a character as complex as that of the famous Pool-Bah. Whether a statement is true or false depends entirely upon the point of view; it makes all the difference in the world whether one speaks as Chancellor of the Exchequer or as Attorney General. It seemed, when the question was considered from the viewpoint of the statutes that personal property was taxed in Illinois,

<sup>26</sup>*Cf. infra*, p. 173 *et seq.*

<sup>27</sup>*L.* 1898, p. 39.

<sup>28</sup>*L.* 1871-72, p. 9.

for as has been seen it would be difficult to devise a more stringent set of penalties, oaths, and instructions than those prescribed for the taxation of such property in the present revenue law. But the matter takes on a different aspect when viewed by the Chancellor of the Exchequer and from the amount of revenue brought in the treasury from the tax on personal property, one would be inclined to discount the evidence of the statute book.

In taking up the examination of the efficiency of the law it is interesting to recall that one of the prime causes of the revamping of the revenue law in 1872 was to secure the listing of this particular kind of property. When the governor sent a message to the legislature urging a revision of the revenue law, he enclosed as an argument a letter from the state auditor which said that "the first necessity for an immediate and radical change and revision" of the revenue law grew out of "the undeniable and admitted fact" that the great mass of intangible personal property escaped taxation; \$150,000,000 of such property, he believed, escaped the assessors each year.<sup>29</sup> It must be conceded that the legislature was not backward in its response. It gave the state a code which should have succeeded in reaching personal property if any code depending upon self-assessment, oaths, and penalties could be successful. But after a trial of forty years it is evident that the attempt has been a failure.

In seeking to test the efficiency of the assessors, one difficulty presents itself at the very outset in that the data furnished in the auditors' reports are not well adapted for the purpose. The assessment figures are not in a form easily comparable with the estimates of true values obtainable from other sources. Thus under the item of *Credits of Banks, Bankers etc.* are given merely the results of deducting certain debits from certain credits, none of the original terms being supplied. The figures given under *Credits of other than Banks, Bankers etc.* are also resultants, no specification being made of the fund subject to

<sup>29</sup>*Reports*, 27 G. A., 1871, III, 101.

deduction for debts. Moreover, no distinction is drawn between the various kinds of credits—mortgages, notes, book-accounts etc. *Moneys of other than Banks, Bankers etc.* represent not only cash which tax payers may have on hand but whatever money they may have on deposit in the various banks. It will be readily seen that these conditions make precise statements about the efficiency of the assessment of intangible property very difficult. But as it happens this is not particularly important, as the evasion and undervaluation is so gross as to render precise statements superfluous. After making every possible allowance for indeterminate factors the assessment, as will be shown, appears still to be extremely inefficient.

### *Mortgages and Credits.*

It has seemed well to examine in detail several items on the schedule of personal property as test probes of the efficiency of the assessment. As an example of the assessment of intangible personal property, the item which appears in the auditor's reports as *Credits of other than Bank, Banker, Broker, Stockjobber* has been chosen as the first to be examined. All property owners except banks, bankers, brokers etc. are expected to list their credits under this head. Credits do not include bonds and stocks and money on deposit; they do include all other claims or demands for anything of value except in so far as these claims are counterbalanced by debts. It will be recalled<sup>30</sup> that some credits, such as those for money loaned, are not liable to deduction and some debts are not available for counterbalancing credits. The amounts returned to the state auditor under this head should, then, include the total amount of all money loaned as well as all other valuable claims not cancelled by *bona fide* debts. Table 10 gives the assessed value of this class of credits for the years mentioned.

<sup>30</sup>*Supra*, pp. 140-141.

TABLE 10.

ASSESSED VALUE OF CREDITS, NOT INCLUDING BANKERS' CREDITS, 1875-1912.

	Entire State	Cook County
1875 .....	\$24,018,237	\$ 146,124
1880 .....	17,680,302	211,815
1885 .....	13,102,498	250,239
1890 .....	11,175,380	190,535
1895 .....	10,342,774	67,660
1900 .....	22,181,440	2,819,312
1905 .....	21,467,724	2,751,212
1906 .....	22,720,543	3,463,790
1907 .....	25,866,300	5,803,866
1908 .....	21,418,528	1,357,322
1909 .....	45,464,043	10,852,991
1910 .....	38,681,356	4,063,277
1911 .....	37,738,112	4,194,186
1912 .....	38,561,691	5,090,345

One needs only to glance over the amounts of credits assessed year by year to realize that undervaluation or evasion exists to a considerable degree. What other reasonable explanation can be made when upon investigation one discovers a drop from nearly thirty-six millions in 1873 to less than eleven millions in 1892? In 1898, just before the new revenue law went into effect, the assessment of credits was scarcely one-third what it had been twenty-five years before—and during that time the population of the state had nearly doubled.

In 1899, with the introduction of a law which legalized undervaluation by authorizing an assessment on the basis of twenty per cent of true value, but which at the same time strengthened the hands of the assessors, the returns leaped from twelve millions to twenty-six and a half million. Again, although the increase of the figures for 1909 over 1908 must be ascribed in part to the law changing the valuation from the one-fifth to the one-third basis, this line of explanation will not account for the increase in the Cook County returns from a little over one million to nearly eleven millions. Who would stand sponsor for the statement that in one year, from 1909 to 1910, the credits in Cook County decreased in value from

eleven million to four million dollars? More than one hundred times as much credits were taxed in 1899 as in 1895. After comparing the return of eleven millions in 1909 with the \$67,660 assessed in 1895, or with the \$80,101 assessed in 1897, or even with the five millions assessed in 1912, any reasonable mind will be convinced that a great many mortgages in Cook County escaped the assessor's net in those years.

Another test of undervaluation and evasion is secured by contrasting the assessments of the various counties. In a state like Illinois it may be safely assumed that at least as many credits are owned by city people as by those who live in the agricultural districts. It is probable that the current of borrowed money is even stronger from the city toward the country than vice versa. Such statistics as are available for Illinois seem to bear out this assumption.<sup>31</sup> Therefore Cook County, the city county of the state, should have a *per capita* assessment of credits at least as large as the agricultural counties. But as is demonstrated by the material presented in Table 11, the returns from Cook County are unable to stand this test. Indeed in only one year, 1899, did it bear its share of the burden, population being taken as the test of the amount owned in the different communities. In every other year the returns from Cook County show evidence of evasion. The most startling figures are those for 1895. At this time Cook County contained one-third of the population of the state and yet listed but one one-hundred-and fifty-fourth of the credits assessed for taxation. The showing for many other years is almost as poor. In 1908 about seventy-five cents worth of credits (\$.738) was listed for each person in Cook County, while nearly six dollars and seventy-five cents worth (\$6.72) was listed for each person outside of Cook County. In that year Winnebago County listed almost as many credits as Cook County; the population of Winnebago County is less than fifty thousand; that of Chicago is over two million, three hundred thousand. However,

<sup>31</sup>Cf. *Report of the Illinois Bureau of Labor Statistics*, 1888.

considerable improvement is apparent in the distribution between counties since 1898.

TABLE II

COMPARISON OF COOK COUNTY WITH THE REMAINDER OF THE STATE IN  
RESPECT TO THE ASSESSED VALUE OF CREDITS, NOT INCLUDING  
BANKERS' CREDITS, 1873-1912.

Population Ratios									
1870	6:1	1880	4:1	1890	2:1	1900	1.6:1	1910	1.3:1
Assessment Ratios									
		1880	83:1	1890	57:1	1900	7:1	1910	9:1
		1881	19:1	1891	79:1	1901	5:1	1911	8:1
		1882	28:1	1892	88:1	1902	4:1	1912	7:1
1873	78:1	1883	165:1	1893	74:1	1903	6:1		
1874	78:1	1884	68:1	1894	21:1	1904	5:1		
1875	164:1	1885	51:1	1895	153:1	1905	7:1		
1876	142:1	1886	42:1	1896	126:1	1906	5:1		
1877	253:1	1887	103:1	1897	127:1	1907	4:1		
1878	115:1	1888	95:1	1898	8:1	1908	15:1		
1879	143:1	1889	85:1	1899	2:1	1909	3:1		

Thus far, merely the internal evidence of the auditors' reports has been presented. These reports show only the property which has been assessed. Therefore, as yet, nothing definite has been shown about the property which should have been assessed. Here help was secured from the *Report of the Bureau of Labor Statistics* made in 1888, which contains data on the mortgage indebtedness of the state in the years 1880 and 1887. It happens that this report contains most of the data necessary for making the proper deductions from the gross amount of mortgages in force, thus furnishing a figure truly comparable with the assessment. Although the data are old, they nevertheless have a present day significance.

As will be seen by referring to Table 12 the first item to be subtracted is that of mortgages for deferred payments, such mortgages, according to the letter of the law, being eligible to deduction for debts. Although in actual practice few deductions are allowed from such credits, in order to be very conservative all of them are

TABLE 12

## TAXABLE MORTGAGES IN 1880 AND 1887 IN COOK COUNTY AND ENTIRE STATE.

	Entire State		Cook County	
	1880	1887	1880	1887
I. Mortgages in force				
(a) .....	\$196,656,074	\$402,053,118	\$ 64,156,754	\$220,603,230
Deductions				
2. Mortgages for deferred payments. (b)	36,396,957	104,176,179	10,109,304	60,377,848
3. Mortgages for money loaned, owned by non-residents (c) .....	21,936,152	30,935,515	6,268,329	13,283,899
4. Mortgages owned by building and loan associations (d)	1,025,176	20,449,352	212,949	9,569,408
Total deductions .....	\$ 59,358,285	\$155,561,046	\$ 16,590,582	\$ 83,231,155
5. Total taxable mortgages .....	\$137,297,789	\$246,492,072	\$ 47,566,172	\$137,372,075
6. Assessed value of Credits of Other than Bank, etc.....	\$ 17,680,302	\$ 12,160,825	\$ 211,815	\$ 117,170

(a) Item 1, *Mortgages in force*, was obtained by multiplying the mortgages in force recorded during the year by their average length of term, a method criticised by J. P. Dunn, Jr. (*Political Science Quarterly*, V, 73), but one which is accurate enough for this purpose.

(b) Item 2, *Mortgages for deferred payments*, includes unaccrued interest, as does also Item 4, *Mortgages owned by building and loan associations*. Sufficient data for eliminating the interest in these two items are not supplied in the report.

(c) Item 3, *Mortgages for money loaned, owned by non-residents*, was obtained from the figures given in the report for all mortgages held by non-residents. The average term of a mortgage of this class for 1880 is not given in the report. It is assumed that it was the same for 1880 as for 1887. It would not be proper to subtract all mortgages held by non-residents, for some of these have already been subtracted in the Item 2, *Mortgages for deferred payments*. It was assumed that the same proportion of mortgages for deferred payments was held by both residents and non-residents. Following this assumption the figure in the table was

considered in the calculation to be blotted out by declarations of debt.

The second item subtracted, mortgages owned by non-residents, is also over-conservative, for many mortgages on property in other states were owned by residents of Illinois—perhaps as many as the Illinois mortgages owned by non-residents.

But the figures as they stand after the foregoing subtractions still include the mortgages of banks and other such institutions whose credits are listed under a different form. Perhaps the most important of these companies, and the only ones for which information is obtainable, are the building and loan associations; their mortgages are accordingly subtracted also.

The figures obtained after making all these deductions, represent the value of the mortgages which should have been listed in 1880 and 1887.<sup>32</sup> It will be recalled that the item of the auditors' reports with which these figures are to be compared, is supposed to include not only these mortgages but also notes not recorded, accounts, mortgages for deferred payment, mortgages in other states owned by citizens of Illinois, and every other demand for a valuable thing, not cancelled by debts. The assessed value of credits should have been, then, considerably larger than the total value of the taxable mortgages. But in 1880, as is shown in the table, when there were over one hundred and thirty-seven millions of taxable mortgages alone in the state, the assessors were able to find only about eighteen millions of all kinds of credits. In the same year when there were nearly forty-eight millions in mort-

arrived at by using the following proportion: the total amount of mortgages is to the total amount of mortgages for money loaned as the total amount of mortgages executed to non-residents is to the amount of mortgages for money loaned executed to non-residents. or  $x$ .

(d) No average terms being given for 1880, those for 1887 were used. A proportion similar to that used in Item 3, was resorted to in this case in order to eliminate the mortgages for deferred payments belonging to building and loan associations.

<sup>32</sup>No account is taken of the fact that some mortgages given to residents of Illinois are afterwards transferred to non-residents.

gages which should have been taxed in Cook County, the assessed value of all credits in this county was only \$211,815. The figures for 1887 are even more unfavorable. By that time the taxable mortgage value for the entire state had risen to \$246,492,072, but the assessed value of credits had actually fallen over five millions from the 1880 figure—to \$12,160,825. In Cook County, it would appear from the assessors' returns, the total value of credits was only \$117,170. But in that very year the taxable mortgages alone amounted in this county to \$137,372,075. This meant that in Cook County the assessment efficiency was about one-tenth of one per cent. Or, to state it in another way, about nine hundred and ninety-nine mortgages out of each one thousand escaped taxation. It is true that real estate and property in general were considerably undervalued at this time. But mortgages, when reached by the assessor, are seldom greatly undervalued and therefore the great bulk of the discrepancies between real and assessed values must be ascribed to evasion.<sup>33</sup>

It is not difficult to make a rough estimate of the efficiency of the law at the present time. The assessment in 1912 was about thirty-eight and one half million dollars as compared with the twelve million in 1887. What the increase in taxable mortgages has been can only be conjectured; but material gathered in Jo Daviess County between 1900 and 1906 shows that in this single county the value of the mortgages subject to taxation had about trebled.<sup>34</sup> If this were true for the entire state, it would indicate that the taxation of credits in Illinois at the present time is but little less a farce than it was in the eighties. Indeed, the testimony of the officers who enforce the law confirms this view. The special counsel for the board of review of Champaign County, in a recent campaign against tax dodgers, declared that not one mortgage in

<sup>33</sup>This statement assumes that the mortgages recorded in Cook County, except those owned by residents of other states, were owned by Chicagoans.

<sup>34</sup>*Wisconsin Tax Commission Report*, 1907, p. 339.

twenty was taxed and the county treasurer bore him out in this estimate.

A very interesting way to become enlightened about the efficiency of mortgage taxation is to attend a hearing of a county board of review. There you find that about the only person who lists a mortgage is the man whose property has recently been acquired through inheritance and whose possessions are known to the assessor because of the recently probated will, or perhaps an occasional woman, who, terrified by an order to appear before the board, trembling admits that she owns a mortgage, and submits to a tax which takes from her nearly half of her interest. Sometimes the reviewers do not even bother to summon skillful business men whom they know to have mortgages and who are conversant with the rules of the game. Indeed the manner of some of the officials would indicate that they consider it more or less of a joke when a person is foolish enough to admit that he is the owner of credits.

Of odds and ends, therefore, is the item of credits made up. Instead of the great mass of evidences of debt which the law seeks to tax under this head, only an occasional mortgage is reached. It would seem that forty years was a sufficiently long time to experiment with the self-assessment system of intangible personal property. The result of the experiment is known to all who have made the slightest inquiry into the situation; there is no one bold enough to pretend that it has been a success. The violent fluctuations from year to year in the assessed values, the wide differences between the returns from various counties, the great disparity between the assessment values and the estimates of the actual values of taxable credits, and the testimony of common observation all condemn the present plan for extracting a revenue from this class of intangible personal property.

#### *Bankers' Credits.*

The next item used as a test of the success of the property tax in reaching personal property is called *Credits of Bank, Banker, Broker, Stock-jobber*. This item

is an excellent example of the complicated nature of many of the provisions of the law which the local officials are called upon to administer. As has already been explained,<sup>35</sup> it is very different in content from the item just considered. Table 13 shows the values assessed under this head for selected years.

TABLE 13.  
ASSESSED VALUE OF BANKERS' CREDITS, 1875-1912.

	Entire State	Cook County
1875 .....	\$1,953,223	\$ 349,573
1880 .....	1,414,971	55,342
1885 .....	1,337,114	105,610
1890 .....	1,050,489	30,308
1895 .....	1,724,611	12,225
1900 .....	1,919,722	236,366
1905 .....	3,539,058	233,013
1906 .....	2,173,885	286,069
1907 .....	3,872,426	247,924
1908 .....	3,902,282	229,073
1909 .....	5,722,372	481,619
1910 .....	7,180,020	1,686,397
1911 .....	8,375,682	2,559,073
1912 .....	7,819,935	1,257,024

The insignificance of these amounts together with the fact that the item is obviously intended to gather up the left-overs, makes extended comment inadvisable. A few points may be noted, however, as being indicative of the general inefficiency of the assessment. Thus the bank credits reported in 1892 from Cook county, including Chicago, amounted to the miserly sum of \$8,200. Between 1898 and 1899 they jumped from \$12,180 to \$1,919,433. The sudden rise in 1899 was probably due to the change in the revenue law of that year, which did not redefine credits but merely modified the assessment machinery. Changes in the law which one would expect to see clearly reflected in the assesment returns seem to have had little or no effect. Thus the law of 1901 exempting banks incorporated under the state law caused no falling off in the assessment values; this would seem to indicate that the

<sup>35</sup>*Supra*, p. 140.

TABLE 14

## CALCULATION OF THE NET TAXABLE CREDITS OF THE STATE BANKS OF CHICAGO ON JUNE 5, 1893 (a)

	Gross Tax- able Credits	Deductions	Balance of Deductions over Credits	Net Tax- able Credits
1. Bank of Commerce .....	\$1,309,115.96	\$1,586,973.39	\$ 277,857.43	.....
2. Bank of Illinois .....	.....	.....	.....	.....
3. Central Trust and Savings Bank .....	355,815.33	198,313.57	.....	\$ 157,501.76
4. Chicago City Bank .....	162,869.30	54,226.95	.....	108,642.35
5. Chicago Trust and Savings Bank .....	829,113.67	404,133.23	.....	424,980.44
6. Commercial Loan and Trust Co. ....	1,134,434.06	956,142.35	.....	178,291.71
7. Corn Exchange Bank .....	7,043,022.79	7,857,974.15	814,951.36	.....
8. Dime Savings Bank .....	480,856.76	503,438.62	22,581.86	.....
9. Garden City Banking and Trust Co. ....	1,081,646.30	1,051,279.22	.....	30,367.08
10. Globe Savings Bank .....	693,278.42	649,721.59	.....	43,556.83
11. Home Savings Bank .....	236,751.59	315,546.78	78,795.19	.....
12. Homestead Loan and Guaranty Co. ....	264,050.00	21,862.93	.....	242,187.07
13. Illinois Trust and Savings Bank .....	15,015,375.97	18,856,185.58	3,840,809.61	.....
14. Industrial Bank of Chicago .....	271,995.79	129,737.33	.....	142,258.46
15. International Bank .....	1,406,957.31	958,592.89	.....	448,364.42
16. Merchants State Bank .....	25,000.00	.....	.....	25,000.00

(a). Compiled from the reports to the Auditor.

TABLE 14—CONTINUED

	Gross Tax- able Credits	Deductions	Balance of Deductions over Credits	Net Tax- able Credits
17. Milwaukee Ave. State Bank.....	759,983.64	590,014.31	.....	169,969.33
18. Northwestern Bond and Trust Co.....	722,076.42	646,349.47	.....	75,726.95
19. Royal Trust Co.	884,368.60	531,154.53	.....	353,214.07
20. South Side State Bank.....	107,502.49	18,202.65	.....	89,299.84
21. State Bank of Chicago .....	2,087,165.85	2,101,863.54	14,697.69	.....
22. The American Trust and Sav- ings Bank.....	3,937,478.98	4,876,751.57	939,272.59	.....
23. The Hibernian Banking Asso- ciation .....	2,962,716.02	2,954,354.53	.....	8,361.49
24. The Merchants Loan and Trust Co.....	9,456,229.52	10,517,370.85	1,061,141.33	.....
25. The Northern Trust Co.....	4,264,573.75	5,849,280.90	1,584,707.15	.....
26. The Prairie State Savings and Trust Co....	1,458,853.54	2,283,862.65	825,009.11	.....
27. Union Trust Co. ....	2,148,769.14	3,074,530.16	925,761.02	.....
Total Net Taxable Credits.....				\$2,497,721.80

credits of the state banks had not been reached for taxation. The law of 1903 classing sums in the hands of other banks subject to draft and certain cash items as credits seems to have had little effect toward increasing the assessment. Indeed, the amount returned in 1906 was smaller than that returned in 1902 (\$2,173,885, as compared with \$2,800,441).

In attempting to secure a figure with which to compare the sum returned as bank credits, recourse was made to the reports of the state banks to the auditor in his

capacity as bank examiner. One calculation was made from the reports of June 5, 1893, and another from reports rendered on April 27, 1900.<sup>36</sup> The report made on the date nearest the assessment day was chosen but in each case it fell some days away, and during this time it is possible that the figures in the bank statements changed quite radically. The results of these calculations, therefore, should be accepted with these facts in mind.

By referring to Table 14 it will be found that in 1893 the state banks of Chicago had net taxable credits to the amount of \$2,497,721.80, according to their statements of condition made thirty-six days before the date of assessment. The credits for all the state banks, for all the private banks, brokers etc., in Cook County, including Chicago, were assessed that year at \$22,375. Property in general at this time was undervalued greatly, but it requires a great degree of undervaluation to explain how two and one-half million in credits could be listed at twenty thousand dollars. These figures would seem to indicate evasion of the grossest type.<sup>37</sup>

<sup>36</sup>The tests were made on these particular dates for these reasons. The first was made from 1893 data in order to check the results of the *Report of the Bureau of Labor Statistics* (cf. note 37). The year 1900 was chosen for the second test because it is probably the most normal of recent years. In 1899 the new revenue law went into effect and in 1901 the state banks were exempted from making their returns in this form. *L. 1901, p. 266.*

<sup>37</sup>In a report on taxation, published as a part of the *Report of the Bureau of Labor Statistics* for 1894, the following table is given to show the efficiency of the assessment of bank credits. The table is compiled from a report to the auditor showing the condition of the state banks in Chicago on June 5, 1893 (p. 34), and is reproduced exactly, no attempt being made to eliminate errors.

Resources of Twenty-Seven Chicago Banks as Shown by the Auditor's Report.

Loans and Discounts.....	\$59,995,715.29
Bonds and Stocks (other than U. S.).....	8,099,450.78
Overdrafts .....	101,605.00
<hr/>	
Total Taxable Credits.....	\$68,196,851.07

In 1900, on the other hand, the assessment figures tell a somewhat different story. This is evident from Table 15. On April 27, twenty-seven days after the assessment date of that year, the net taxable credits of twenty-five state banks in Chicago were \$568,700.49 according to the bank statements. The bank credits reported for taxation from Cook County on April 1 of that year were valued at \$236,366. But this valuation was avowedly on the one-fifth basis, so that it should be multiplied by five to get the real cash value of the credits assessed. From this it appears that twenty-five state banks in Chicago had one-half the whole amount of credits listed for all the bankers, brokers,

Subject to the following deductions:

Savings Deposits .....	\$21,275,598.93	
Individual Deposits .....	33,578,645.52	
Demand Certif. of Deposit.....	2,049,027.18	
Time Certif. of Deposit.....	3,686,203.97	
Certified Checks .....	852,145.65	
Cashier's Checks .....	498,367.74	
Due to Other Banks.....	5,132,847.11	
Re-discounts .....	65,909.72	
Total deductions .....		\$67,138,745.82

Net Taxable Credits, June 5, 1893.....	1,058,105.25
Net Credits Listed, May 1, 1894.....	10,000.00

Difference .....	1,048,105.25
------------------	--------------

The errors in this table are so serious as to make it utterly worthless. First of all, the item of *Bonds and Stocks* should not be included among the credits, for the law provides that these securities shall be listed as a separate item on the assesment roll and that no deduction shall be allowed from them. The subtraction of this item leaves no balance of taxable credits at all.

But much more serious than this first criticism is the one which must be made against the general method employed. The table is merely a computation made from the sum totals of the various items included in the statements of the twenty-seven banks. But the assessor does not treat the banks collectively. Instead of taking them as a group as is done in this statement, he assesses each one individually. Therefore in order to make a fair comparison, it is necessary to ascertain the net taxable credits for each individual bank, add them together and contrast with the credits assessed. By this method (*cf.* Table 14) even more startling results are obtained than were presented in the report.

and the stock-jobbers in Cook County—a statement which on the face of it reveals no great undervaluation or evasion.

It appears then that, although the evidence in regard to the assessments of the credits of bankers is somewhat conflicting and inconclusive, it is probable that undervaluation and evasion are to be found here to a considerable degree.

TABLE 15.

CALCULATION OF THE NET TAXABLE CREDITS OF THE STATE BANKS OF COOK COUNTY ON APRIL 27, 1900. (a)

	Gross Tax- able Credits	Deductions	Balance of Deductions	Net Tax- able Credits
Avenue State Bank, Oak Park .....	\$ 108,753.05	\$ 224,940.27	\$ 116,187.22	
Bank of Chicago Heights .....	131,451.09	188,339.26	56,888.17	
Bank of Harvey.....	105,907.73	171,149.43	65,241.70	
Chicago City Bank..	546,703.56	501,587.74		\$ 45,115.82
Foreman Brothers Banking Co.....	2,573,144.62	2,160,053.58		413,091.04
Garden City Bank- ing and Trust Co.	2,025,473.39	2,332,622.44	307,149.05	
Hibernian Banking Association .....	4,890,160.79	7,294,309.78	2,404,148.99	
Home Savings Bank		1,291,725.28	1,291,725.28	
Illinois Trust and Savings Bank .....	34,905,790.61	59,601,610.24	24,695,819.63	
La Grange State Bank .....	112,658.76	128,164.81	15,506.05	
Lemont State Bank..	15,023.70	23,060.33	8,036.63	
Milwaukee Ave. State Bank.....	1,152,044.11	1,465,809.49	313,765.38	
Oak Park State Bank, Oak Park....	590,992.54	742,418.84	151,426.30	
Pearson-Taft Land Credit Co.....	751,023.96	669,051.88		81,972.08
Prairie State Bank..	2,369,318.53	3,121,209.60	751,891.07	
Pullman Loan and Savings Bank .....	822,352.03	1,440,052.46	617,700.43	
Royal Trust Co.....	1,936,892.85	2,364,323.77	427,430.92	
State Bank of Chi- cago .....	4,552,061.94	5,474,348.95	992,287.01	

(a) Compiled from the reports of the Auditor.

TABLE 15—CONTINUED

	Gross Tax- able Credits	Deductions	Deductions Deductions	Net Tax- able Credits
State Bank of Evan- ston .....	628,083.30	1,129,788.20	501,704.90	
State Bank of West Pullman .....	63,656.00	82,153.33	18,497.33	
American Trust and Savings Bank .....	6,225,791.68	9,854,399.96	3,628,608.28	
Merchants Loan and Trust Co. ....	13,334,768.38	21,097,983.40	7,763,215.02	
The Northern Trust Co. ....	9,266,281.56	17,101,825.51	7,835,543.95	
The Western State Bank .....	591,783.03	563,261.48		28,521.55
The Union Trust Co.	2,937,505.13	4,383,724.14	1,446,219.01	
Total Net Taxable Credits.....				\$ 568,700.49

*Tangible Personalty.*

The assessor has had poor success also in reaching tangible personal property for taxation. The long columns of figures in the reports of the state auditor, which present the results of the assessors' efforts in this direction, belie the tradition as to the dryness of statistics. So ridiculous are some of the returns that not long ago they were made the text for a sketch by a popular writer which appeared in the comic section of a syndicate of newspapers. What could be more preposterous, for example, than the statement that the full cash value of all the diamonds and jewelry in Chicago in 1911 was only about a half-million dollars?<sup>38</sup> and this finds a worthy companion in the statement that there is not a single patent of value owned by a resident of the city.<sup>39</sup> According to the assessment figures, melodeons and organs have been relegated entirely to the rural regions for not one instrument was found in metropolitan Cook County.<sup>40</sup> Pianos in Perry County have a

<sup>38</sup>\$576,900; assessed value \$192,300. *Auditor's Report*, 1912, p. 432.

<sup>39</sup>*Ibid.*, p. 430.

<sup>40</sup>*Ibid.*, p. 428.

fair cash value of about fifteen dollars apiece.<sup>41</sup> But in spite of their apparent cheapness, the number assessed shows that they are quite scarce; there were not one hundred and fifty thousand in the entire state in 1911.<sup>42</sup> Watches and clocks are also surprisingly rare in view of their extremely low cost. The average timepiece in 1911 had a fair cash value of about six dollars and a half,<sup>43</sup> and yet there were only 328,306 in the entire state. In Cook County, only one person in every one hundred and eighty-eight could afford a watch or clock. Cook County is twenty-five times as populous as Kane County, but contains only a few more watches and clocks.<sup>44</sup> It is a heavy blow to the literary reputation of the state to have the statement published broadcast that only eighty-five persons in the state were the fortunate possessors of annuities or royalties of any sort in 1911.<sup>45</sup> Again, franchises were listed in Cook County to the number of seventeen with a total cash value of \$7,782.<sup>46</sup>

### *Money.*

A very satisfactory item for use in comparing real with assessed values is that called "Moneys of other than bank, bankers etc." All persons not included in the legal

<sup>41</sup>\$15.54; assessed value \$5.18. *Ibid.*, p. 427.

<sup>42</sup>*Ibid.*

<sup>43</sup>\$6.51; assessed value \$2.17.

<sup>44</sup>The population of Kane County is 91,862 and that of Cook is 2,405,233. 12,780 watches and clocks are listed for Cook County and 10,663 for Kane.

<sup>45</sup>*Aud. Rept.* 1912, p. 429.

<sup>46</sup>Assessed value \$2,594. *Ibid.*, p. 428.

A resident of Champaign County bought an automobile in 1912 for \$2,500. He gave its fair case value to the assessor as \$1,000. Some time later, prompted by a qualm of conscience, he contemplated increasing his valuation but before doing so, happened to recall that a neighbor, a county tax official, had paid \$3,000 for a machine and decided before making any change to see what valuation this man had placed on his car. When he found that the new \$3,000 automobile was listed at \$200, he decided that his own statement needed no revision upward.

Instances of this sort might be multiplied indefinitely.

definition of bank, banker, broker etc.<sup>47</sup> are required by the law to list whatever money they may possess under this item. This is practically a tax upon bank credit in the hands of private individuals<sup>48</sup> and it is possible to test its success by comparing the assessed values with bank deposits.

But first it may be well to glance at the assessment figures for the whole period. The assessed values of this item for the years specified, as shown by the auditors' reports, were as follows:

TABLE 16.

ASSESSED VALUE OF MONEYS, NOT INCLUDING BANKERS' MONEYS, 1875-1913.

	Entire State	Cook County
1875 .....	\$15,248,399	\$ 294,712
1880 .....	13,014,803	1,207,874
1885 .....	9,345,880	1,164,552
1890 .....	9,456,573	1,061,264
1895 .....	9,176,947	1,459,384
1900 .....	15,115,652	1,675,331
1905 .....	18,435,506	1,757,465
1906 .....	18,773,144	1,914,927
1907 .....	18,944,236	1,761,304
1908 .....	18,728,241	963,907
1909 .....	31,257,604	1,368,952
1910 .....	32,204,798	1,819,565
1911 .....	35,525,479	3,733,947
1912 .....	33,828,858	2,173,277

The variations in this case are not so great as they were in the assessments of credits. An increase from about eight to eighteen million dollars in 1899 as compared with 1898 is eloquent, however. It is also quite surprising to learn that there was only a little more than two hundred thousand dollars (\$212,601) in Cook County in 1878. Again, as in the case of credits, Cook County fails under

<sup>47</sup>*Supra*, p. 141; L. 1871-72, p. 68.

<sup>48</sup>The definition of money given in the revenue law is as follows: gold, silver, or other coin, paper, or other currency used in barter and trade as money, in actual possession, and every deposit which the person owning, holding in trust, or having the beneficial interest therein, is entitled to withdraw in money on demand.

the population test to bear its share of the burden. In 1875 when there were six persons in the rest of the state for every one person in Cook County, fifty-one dollars were listed for every dollar in Cook. In 1909 each person outside of Cook County paid fourteen times as great a tax on his money as did the resident of Cook County on his money, assuming *per capita* wealth to be the same. In this year Cook County's share of the assessment, under this assumption, should have been \$19,536,002; its actual assessment amounted to \$1,368,952.

The amount of deposits in the state banks has been a matter of public record only since 1889. The deposits of the national banks are available during the whole period. No figures at all, however, are obtainable for the private banks in the state.<sup>49</sup>

Table 17 presents the amounts of the money on deposit to the credit of individuals in state and national banks for the past twenty-three years, and contrasts with them the assessments of money during these years.

<sup>49</sup>The information in the table has been secured from the *Reports of the Comptroller of the Currency of the United States* and the *Reports of the Auditor of Public Accounts of Illinois*. The item called *individual deposits* in the national banks reports is used, and in the state bank reports, the three items, *time-deposits—savings*, *demand-deposits—individual*, and *demand-deposits—certificates* were added together to give the result presented. The reports made nearest the assessment dates were chosen in each case. The national banks in Cook County, but outside of Chicago, were ignored because sufficiently detailed information is given only in reports which are separated widely in time from those which had been selected as desirable for this table. The item is negligible in this connection, at no time being more than two million dollars. The amount of the deposits in the state banks in Cook County in 1891 is not accessible. In the table it is assumed that it was the same as that of 1890.

TABLE 17.

COMPARISON OF INDIVIDUAL BANK DEPOSITS WITH ASSESSED VALUES OF MONEYS, NOT INCLUDING BANKERS' MONEYS, 1889-1912

ENTIRE STATE			COOK COUNTY	
	Deposits of State and National Banks	Assessed Value of Money, etc.	Deposits of State and National Banks	Assessed Value of Money, etc.
1889.....	\$124,374,251	\$ 9,516,138	\$ 80,551,333	\$ 1,221,899
1890.....	142,040,086	9,456,573	98,937,333	1,061,264
1891.....	174,118,198	9,267,494	107,119,654	997,682
1892.....	203,871,992	9,195,675	139,815,693	970,129
1893.....	191,041,772	9,950,825	127,696,103	1,346,164
1894.....	193,964,276	7,769,358	139,101,367	434,244
1895.....	201,392,368	9,176,947	137,730,861	1,459,384
1896.....	203,737,857	8,196,180	140,209,621	1,279,057
1897.....	200,163,357	8,633,129	141,074,633	1,093,315
1898.....	242,048,068	7,951,202	167,209,535	839,566
1899.....	296,785,239	17,742,210	211,032,906	4,203,385
1900.....	317,169,861	15,115,652	220,149,202	1,675,331
1901.....	384,658,927	16,398,755	265,797,468	2,041,967
1902.....	432,974,839	16,473,438	393,055,447	1,912,245
1903.....	473,542,783	17,148,064	318,308,938	1,855,244
1904.....	519,943,194	17,888,563	347,848,769	1,965,905
1905.....	603,081,049	18,435,506	409,875,260	1,757,465
1906.....	623,789,413	18,773,144	416,493,425	1,914,927
1907.....	670,862,704	18,944,236	440,424,025	1,761,304
1908.....	674,353,841	18,728,241	440,822,737	963,907
1909.....	729,878,790	31,257,604	473,673,979	1,368,952
1910.....	815,767,828	32,204,798	521,099,660	1,819,565
1911.....	863,342,364	35,525,479	555,610,648	3,733,947
1912.....	958,707,244	33,828,858	622,524,029	2,173,277

This table speaks for itself. In not a single year does the assessment approach the amount of the bank deposits. In 1889 the best showing is made, but even here the assessors reached only one dollar in thirteen. This assessment is somewhat better than it seems to be at first, for real estate and property in general were undervalued at this time. In 1898 when only about eight million was taxed, two hundred and forty-two million was on deposit. Cook county, as usual, can show a record even worse than that of the whole state. Each year shows a lower percentage

than was taxed in the state at large. But the climax is reached in 1908 when less than five millions was assessed in the county (\$963,907 representing a twenty per cent valuation), while over four hundred and forty million stood to the credit of individuals in the banks. The assessment for 1912 is almost as bad as that of 1908. Comment on these figures is superfluous. Evidently from the standpoint of the exchequer, money is not taxed in Illinois.

To examine further the various items of the personal property schedule could have no other effect than to confirm what has already been shown clearly enough for the purpose in hand. It is quite evident that the general property tax has most woefully failed to reach personal property for taxation.

## CHAPTER IX

### THE ASSESSMENT OF REAL ESTATE

#### *Definition of Real Estate.*

The second great class of property is real estate. By the definition given in the revenue code this term includes not only the land itself, whether laid out in town or city lots, or otherwise, with all things contained therein, but also all buildings, structures and improvements, and other permanent fixtures, of whatsoever kind, thereon, and all rights and privileges belonging or in anywise pertaining thereto, except where the same may be otherwise denominated by this act.<sup>1</sup>

The few exceptions to this general description are noted in the discussion of personal property.<sup>2</sup>

The general real estate assessment is made quadrennially but corrections and additions are made annually.<sup>3</sup> Annual assessments of all real estate were made before 1899.<sup>4</sup> An act passed in 1879 provided that an assessment should be made in 1880 and every four years thereafter but before the time came for the 1881 assessments, the law was repealed and annual assessments once more established.

#### *Manner of Listing.*

The assessment books are prepared by the county clerk every fourth year and contain descriptions of all tax-

<sup>1</sup>L. 1871-72, p. 68.

<sup>2</sup>See *supra* p. 138. Interstate bridges are specifically designated as real estate by an act of 1873. *Rev. Stat.* 1874, p. 908. A leasehold interest in exempted lands was similarly classified by a clause in the original act. L. 1871-72, p. 18.

Government and school lands are taxable as soon as entered or sold, Illinois and Michigan Canal lands when paid for in full, Illinois Central lands when the last payment becomes due and swamp lands when the county conveys the title. L. 1871-72, p. 18.

<sup>3</sup>L. 1898, p. 36.

<sup>4</sup>L. 1871-72, p. 17; L. 1879, p. 241; L. 1881, p. 133.

able real estate together with the names of the owners.<sup>5</sup> To enable the county clerk to prepare these books properly, it is required that when a tract of land has been divided into parcels in such a way that description is difficult, the owner shall have it plotted into lots which can be simply described.<sup>6</sup> Moreover the county clerks are informed by the state auditor of lands in their counties which become taxable, the auditor being instructed to secure this information from the proper officials of the United States, of the Illinois and Michigan Canal, of the Illinois Central Railroad and of the counties containing swamp lands.<sup>7</sup> In counties under township organization the books are made up by townships; in those under the county form of organization, by congressional townships. Special books may be prepared for assessments in cities.<sup>8</sup> In those years when a general assessment of real estate is not made, the county clerk prepares a supplementary list of lands which have become taxable in the preceding year.<sup>9</sup>

Assessment books must be ready by the first day of the assessment period when the assessors are directed to call for them and to proceed to view and determine the value of each parcel of real estate.<sup>10</sup> If the assessor discovers property which has been omitted, improvements which have been made, or depreciation which has come about in the real estate, he revises the assessment lists so as to make them as complete and correct as possible.<sup>11</sup>

### *Undervaluation.*

All through the period under discussion undervaluation of real estate is patent upon the face of the returns.

<sup>5</sup>L. 1871-72, p. 19; L. 1873-74, p. 51; L. 1879, p. 241; L. 1881, p. 133; L. 1885, p. 23.

<sup>6</sup>L. 1871-72, p. 18; L. 1879, p. 255.

<sup>7</sup>L. 1871-72, p. 64.

<sup>8</sup>*Ibid.*, p. 19.

<sup>9</sup>L. 1898, p. 36; L. 1903, p. 297; L. 1905, p. 360.

<sup>10</sup>L. 1871-72, pp. 19, 20, 21; L. 1879, p. 243; L. 1881, pp. 133, 134; L. 1898, p. 36.

<sup>11</sup>L. 1871-72, p. 20; L. 1885, p. 234; L. 1895, p. 36; L. 1905, p. 360.

Thus, according to the assessment figures the value of the real estate in the state actually decreased in the twenty years following 1873—from \$897,615,195 to \$613,093,407.<sup>12</sup> Yet during this period over four hundred million dollars worth of buildings had been erected in Chicago alone,<sup>13</sup> and actual land values had increased enormously.

The assessment figures for 1873, however, are unusually high, this being the year when the new revenue law went into effect. But there is evidence which seems to indicate serious undervaluation even in the 1873 figures. The evidence comes from Cook County. Before 1875 Chicago had two annual assessments of property—the township assessors making one estimate for county and state purposes and the city assessors making a distinct assessment for city purposes. When these two assessments for 1873 are compared it appears that the city assessors found the real property in the North, South, and West Divisions of the city to be worth one hundred millions more than the value placed upon it by the township assessors for state purposes.<sup>14</sup>

In 1896 Mayor Swift's commission found the value of the taxable real estate in the district investigated in Chicago to be \$438,447,180, while the assessed value of the property was only \$40,668,720.<sup>15</sup> In his report to the tax commission of 1910 Professor J. A. Fairlie points out that in 1890 the real estate assessments were less than one-fifth of the census estimates of the full value of taxable real estate.<sup>16</sup>

It will be recalled that in 1898 the legal rate of under-assessment was placed at this figure, twenty per cent, but the statistics of 1900 and of 1904 indicate that the assessment had fallen still lower and stood then at but one-seventh of the true value.<sup>17</sup> Complaints received by the

<sup>12</sup>Fairlie, *Report on Taxation and Revenue System of Illinois*, p. 203.

<sup>13</sup>*Rept. Bu. Lab. Stat.*, 1894, p. 68.

<sup>14</sup>\$262,969,820 as compared with \$162,739,712. *Ibid.*, p. 67.

<sup>15</sup>*Ibid.*, 1896, p. 124.

<sup>16</sup>Fairlie, *op. cit.* p. 26.

<sup>17</sup>*Ibid.*

tax commission indicated that in 1910 the amount settled upon by the assessors as the full value of the real estate was "only from fifty to seventy-five per cent of the actual value of the property assessed."

Specific cases of undervaluation are perhaps less valuable, but are certainly more striking evidence of the practice. The *Report of the Bureau of Labor Statistics* for 1894 cites the example of a piece of property whose actual value in 1873 was \$9,300 but which was valued by the assessors at but \$330. Another house and lot sold in 1893 for \$45,000; the same year the assessor estimated its fair cash value at \$270.<sup>18</sup> In 1912 there was a residence in Champaign County which competent judges valued at \$30,000; it appeared on the assessment books at \$2,200. A resident of the same county recently purchased a piece of real estate for \$10,000. Its valuation for taxation purposes was placed at \$1,800. The legal valuation at this time was 33 1-3%.

### *Inequality.*

Yet undervaluation would be of comparatively little moment if it were uniform, that is, if there were no inequalities in the rate of the undervaluation among individuals or localities. But if there is undervaluation, there is almost necessarily inequality. The difficulty is well emphasized in the report of the revenue commission of 1886.<sup>19</sup> "The assessor, having forsaken the standard of the law," the report reads, "is without guide or restraint, except his own varying judgment, and subject to the pressure of importunate tax-payers, who pull steadily downward." That inequalities have resulted in Illinois, no one can deny. All through the period they have been the cause of discussion and condemnation. Every writer who has looked into the situation has found much to criticise. In 1886 the revenue commission reported that "the realty of one man is assessed at one-third, one-half, two-thirds or even full

<sup>18</sup>P. 58.

<sup>19</sup>P. iv.

measure of its actual value; while that of his neighbor is assessed at one-sixth, one-tenth, one-twentieth, or as was shown in one instance of considerable magnitude, one twenty-fifth of its actual value." "Such distinctions," continues the report, "are too invidious to be meekly borne."

The *Report of the Bureau of Labor Statistics* in 1894 was especially bitter in its attack upon the inequalities of the real estate assessments. In the case of thirty pieces of high class residence property in Chicago, worth \$20,000 and above, the assessments in 1893 were found to vary from four to about twelve per cent of the real value of the property.<sup>20</sup> On the other hand the assessments of less choice property approached more nearly the true value. Among eighty pieces of property, each of which sold for less than \$4,000, the assessments varied from twelve to forty per cent of the actual market value.<sup>21</sup> The evils of throwing a disproportionate share of the tax burden upon the small property owners are, of course, only too apparent.

The investigation made for the tax commission of 1910 failed to reveal "any large variation in the relative degree of undervaluation" between rural and urban real property,<sup>22</sup> but it was pointed out that the degree of undervaluation varied greatly between the counties. On the basis of the census data it was shown that in 1900 the assessed value varied in the different counties from about eleven to nineteen per cent; and in 1904 from about thirteen to twenty per cent. Compared with data furnished by the new census (1910), the quadrennial assessment of 1911 shows a truly startling variation in undervaluation, ranging from about fourteen per cent in Kankakee County to about forty-three per cent in Alexander County.<sup>23</sup>

<sup>20</sup>P. 88.

<sup>21</sup>*Ibid.*, pp. 92-94.

<sup>22</sup>Fairlie, *op. cit.*, p. 26.

<sup>23</sup>*Thirteenth Census*, VI, 426, 430; *Proc. St. Bd. Equal.*, 1911, pp. 27, 28.

*Recommendations.*

To increase the efficiency of the real estate assessments the tax commission of 1886 recommended not only the substitution of county for township assessors,<sup>24</sup> but also the establishment of a small state board of tax commissioners and the segregation of the sources of the state and local revenues.<sup>25</sup> This last suggestion is here found, according to Professor Seligman, "for the first time in the history of official commissions."<sup>26</sup> The report of this commission was considered timely enough in 1902 to justify a reprint by the state. But its suggestions have found no response in legislative action.

The special tax commission of 1910 reiterated the recommendation contained in the report of 1886 in regard to the appointment of a permanent tax commission and it suggested further the advisability of constitutional changes permitting the different treatment of various kinds of property for taxation purposes.<sup>27</sup> Moreover in Professor Fairlie's report it was suggested that "to secure the largest results, it would seem necessary to change radically the method of selecting local assessors so as to eliminate political and local influences, by making such officers appointive for longer terms and for larger districts."<sup>28</sup> One of the members of the commission, H. B. Riley, made an independent report in favor of assessors appointed under civil service regulations. But thus far, all the recommendations and suggestions of this commission have had no more effect upon the legislature than those of the earlier commission.<sup>29</sup>

Thus the testimony of all commissions which have investigated unites to convict the general property tax in Illi-

<sup>24</sup>Cf. *infra*, p. 135.

<sup>25</sup>*Rept. Rev. Com.*, 1886, pp. iv, vi, viii, ix, xiii.

<sup>26</sup>E. R. A. Seligman, *Essays in Taxation*, (seventh edition, N. Y., 1911) p. 401.

<sup>27</sup>*S. J.*, 47 G. A., 1 Sess., p. 184 *et seq.*

<sup>28</sup>Fairlie, *op. cit.*, pp. 27-28.

<sup>29</sup>*S. J.*, 47 G. A., 1 Sess., pp. 187-188.

nois of inefficiency in the taxation of real estate. Time and time again undervaluation and discrimination have been shown to exist. Unlike personal property, real estate does not in any case escape taxation entirely. One comes to suspect that this is so only because it is almost physically impossible. But all suggested changes to remove the temptation to undervaluation or to institute administrative supervision which would go far to check abuses have found no favor in the eyes of the Illinois legislators. In the case of personal property there seems to be a reasonable doubt whether the law is enforceable. There is no such doubt in the case of real estate. New York is able, in assessing her real estate, so approximate so closely its market value that real estate dealers find the tax returns a valuable guide in fixing prices. A similar condition should obtain in Chicago.

## CHAPTER X.

### REVIEW, EQUALIZATION, EXTENSION AND COLLECTION

#### REVIEW AND EQUALIZATION.

The system of review and equalization was evolved, it will be recalled, in an attempt to abate the abuses which had arisen from the undervaluation of property in one locality as compared with another. The theory of this plan is that the figures arrived at by the assessors working in the field shall be checked up, corrected and compared with the values arrived at by other assessors, and any discrepancies, mistakes or undervaluations corrected.

When the county clerk receives the assessment books from the assessor, he corrects all the errors he can discern.<sup>1</sup> Formerly, in counties which had townships, there was a township board of review, composed of the assessor, clerk and supervisor of the town, which met annually to hear complaints and make adjustments; but this was done away with in 1898.<sup>2</sup>

#### *County Board of Review.*

In all counties during the entire period there has been a revision by a county board of review, but the composition of this board has varied. Before 1898 the board of supervisors or the board of county commissioners acted as the revising board for the counties.<sup>3</sup> Since 1898 the assessments in the counties not under township organization have continued to be reviewed by the board of county commissioners.<sup>4</sup> In the township counties, on the other hand, the board of review has been differently constituted. At present it is made up of the chairman of the board of super-

<sup>1</sup>L. 1871-72, p. 24.

<sup>2</sup>*Ibid.*, p. 22; L. 1879, p. 243; L. 1881, p. 134; L. 1891, p. 187; L. 1898, p. 36 *et seq.*; L. 1907, p. 495.

<sup>3</sup>L. 1871-72, pp. 24, 25.

<sup>4</sup>L. 1898, p. 36.

visors and two citizens of the county, one from each of the leading political parties, appointed by the county judge.<sup>5</sup> An exception is made in the case of counties having a population of over 125,000 (Cook County). Here, after a preliminary revision by the board of assessors, the lists go before an elected board of review. The three members of this board are chosen for terms of six years, one member being elected every two years.<sup>6</sup>

Little is to be expected under the system in force in counties under township organization, where two of the members are appointed annually. The investigation made for the revenue commission of 1910 showed that there was criticism of this feature on the ground that it promoted frequent changes of membership and prevented "the board from becoming to any important degree an expert body."<sup>7</sup> The situation must often work out as it has in one particular county recently investigated, where the chairman of the board of supervisors was assisted by a boiler-maker and bar-tender, the appointed members, both of whom were, as the chairman confided, almost utterly ignorant of the revenue law and devoid of the desire and the intelligence necessary to learn. Their function was to act as clerks to the supervisor who changed assessments as he chose, often without going through the formality of asking the approval of the other members.

The Cook County board of review has not in recent years been subject to criticism because of lack of intelligence. The more serious charge that the members of the board have made use of their office to aid their private business has been made by the Illinois Tax Reform Association. It has been urged, to prevent such abuses, that none of the board be permitted to engage in business during his term of office.<sup>8</sup>

<sup>5</sup>*L.* 1901, p. 267; *L.* 1907, p. 497. This arrangement has held since 1901. For three years preceding this date the board was made up of the clerk of the county court, the chairman of the county board and one citizen appointed by the county judge. *L.* 1898, p. 36.

<sup>6</sup>*Ibid.*, p. 36 *et seq.*

<sup>7</sup>Fairlie, *Report on Taxation*, p. 13.

<sup>8</sup>*Report of the Illinois Tax Reform Association*, 1908, pp. 6, 7.

The act of 1898 sought to increase the efficiency of the county equalization machinery by the addition of two special oaths. Each member of the board of review was to take the following oath before entering upon the duties of his office:<sup>9</sup>

I do most solemnly swear (or affirm) that I will, as a member of the board of review of assessments, faithfully perform all the duties of said office as required by law; that I will fairly and impartially review the assessment of all property as made, that I will correct any and all assessments which should be corrected; that I will raise said assessment or lower the same as justice may require; that I will do and perform all acts necessary to produce a full, fair, and impartial assessment of all property of every kind, nature and description.

Further, upon the completion of the revision the members of the board were required to make affidavit, according to a set form, that they had properly completed the work to which they had pledged themselves.<sup>10</sup>

The functions of the county board of review may be briefly outlined as follows. First, it may add property which has escaped assessment.<sup>11</sup> Second, it may correct individual assessments, in such manner "as shall appear to be just". The corrections may be made upon complaint of the person assessed or, under the act of 1898, upon the initiative of the board itself.<sup>12</sup> In case it is proposed to raise the assessment, the property owner and the assessor must be notified and given an opportunity to be heard. Third, the county board of review may increase or reduce the entire assessment of either real or personal property so as to equalize the assessment between sections of the county or between the classes of property.<sup>13</sup> Under the law of 1872 the board could neither reduce the assessment below the aggregate valuation as made by the assessors nor increase it more than was "actually necessary."<sup>14</sup> But the old law contained a provision under which the board could set aside the entire assessment and order a new one made in accordance with its instructions. Finally, the board

<sup>9</sup>L. 1898, p. 36.

<sup>10</sup>*Ibid.*; L. 1907, p. 495.

<sup>11</sup>L. 1871-72, pp. 24-5; L. 1898, p. 36 *et seq.*; L. 1905, p. 360.

<sup>12</sup>L. 1898, p. 36 *et seq.*; L. 1905, p. 360; L. 1907, p. 495.

<sup>13</sup>L. 1898, p. 36 *et seq.*; L. 1905, p. 360.

<sup>14</sup>L. 1871-72, p. 24.

may hear and determine the application for relief of any person who is assessed on property claimed to be exempt from taxation.<sup>15</sup>

To aid in its task as sketched above, the board is armed with power "to summon any assessor or any deputy or other person to appear" before it to be examined under oath as to the correctness of the valuations returned or the methods used in ascertaining them.<sup>16</sup>

After the review is completed, a set of the assessment data, with the corrections entered, is returned to the county clerk, to serve when equalized as the basis for the levy of the rates.<sup>17</sup>

### *State Board of Equalization.*

After the review by the county boards the assessment is equalized by the state board of equalization. The origin of this board in the late sixties has already been discussed. Its powers were redefined by the act of 1872. Much trouble was apprehended from the extent of the authority granted to this body but little has been actually experienced, both because the powers granted have proved not to be so broad as expected and because the board has shown little disposition to exercise what powers it has.<sup>18</sup>

The state board of equalization is composed of one member elected from each congressional district for a term of four years and the auditor of public accounts. At present it consists of twenty-six members.<sup>19</sup> The pay of the board has been recently changed from a per diem to a salary basis. Instead of five dollars per day, the members now receive one thousand dollars per annum.<sup>20</sup>

<sup>15</sup>*Ibid.*, pp. 24-25; *L.* 1898, p. 36; *L.* 1905, p. 36a.

<sup>16</sup>*L.* 1898, p. 36 *et seq.*

<sup>17</sup>*Ibid.*; *L.* 1905, p. 360.

<sup>18</sup>This is the board which was characterized by one writer as "the grand inquisitorial and confiscatory office, clothed with powers and functions which, if enforced, would have produced a revolution in Austria or Turkey!" C. J. Bullock, *Readings in Public Finance* (Boston, 1906), p. 206.

<sup>19</sup>*L.* 1871-72, pp. 26, 27; *Proceedings*, 1912, p. xcii.

<sup>20</sup>*L.* 1871-72, p. 30; *L.* 1907, p. 494.

The board is organized by selecting one of its members as chairman and by appointing a secretary. The secretary compiles the assessment statistics for the use of the board and prepares their report for the press. The board meets annually on the first Tuesday after the tenth of August and is required to adjourn finally by November first.<sup>21</sup>

The board has power to increase or decrease the aggregate amounts of the county valuations so as to make the assessment in one county bear a just relation to the assessments in other counties of the state. Since 1898 the total amount of increase or decrease by the board may not exceed ten per cent of the total assessed value of property in the state; before 1898, the limit except for railroad property was one per cent.<sup>22</sup> It is required that the board consider separately the following classes of property and calculate equalization percentages for them: personal property, railroad and telegraph property, lands and town and city lots. Individual assessments are, of course, not taken up, the county aggregates for the various classes only being considered. To form a basis for the equalization of personal property the board is required to calculate the state average value of each item enumerated on the schedule, to compare the county average, and to use the result in calculating a percentage to be added to or deducted from the county assessment of all personal property.<sup>23</sup>

After the board has determined the rates of addition or subtraction it certifies its action to the auditor and he forwards the equalization data to the various county clerks.<sup>24</sup>

No one seems to find anything worthy of praise in the state board of equalization except its direct beneficiaries, the members of the board themselves; and even they are often far from unanimous in their estimate of the value of the machinery of which they form a part. A particu-

<sup>21</sup>*Ibid.*, p. 495.

<sup>22</sup>*L.* 1871-72, p. 27; *L.* 1898, p. 36.

<sup>23</sup>*L.* 1871-72, p. 28.

<sup>24</sup>*Ibid.*, pp. 29, 30.

larly virulent attack was made by a member of the present board late in 1913 after it had completed its work for the year. He charged that the committees to which the work of equalization was referred met seldom and performed their work in a hasty and perfunctory manner. "Political motives entirely control the actions of these committees" is his testimony. Not only are they influenced "through fear of the voting tax-payers to make no changes", but, he charges, they are also disposed to discriminate deliberately by raising the assessment in the district of a particular member "for purposes of political revenge, to teach the member a lesson that he will be less active in public agitation for the reform of our iniquitous taxing system." "The custom has been to never raise the assessments in a county unless the member from that district gives his consent." In view of this statement, there is no cause for wonder why so few changes are made by the board. The meeting of the committees of the board were characterized as "an absolute farce" and "a perfect burlesque."<sup>25</sup>

On the whole the tempered, calculated statements of the official commissions seem to sustain to a large degree the seemingly rash and hasty charges of the pamphleteers against the efficiency of the system. The revenue commission of 1886 characterized as "arbitrary and unjust" the equalization between counties by the state board.<sup>26</sup> The plan of adding percentages to the county aggregates was attacked as unfair to the scrupulous property owner who lists his property at its full value. "Thus upon pieces of property already assessed at a large fraction of their value" the report says, "frequently an increase of valuation is made, which carries them above their market value."<sup>27</sup> This commission saw no escape from the evils of equalization except by segregating the sources of state and local revenue. The commission of 1910 was less radical and recommended that the equalization of assessments between

<sup>25</sup>H. T. Nightingale in letters to *The Evanston Press*, December 6, 1913, and to *The Chicago Record-Herald*, November 25, 1913.

<sup>26</sup>*Report*, pp. 11, 12, 13.

<sup>27</sup>*Ibid.*, p. iii.

the counties be made a function of a permanent tax commission.<sup>28</sup> The present board was styled by Professor Fairlie "a clumsy and ineffective body."<sup>29</sup> Indeed such a conclusion was inevitable in face of the evidence of the need of equalization and of the inactivity of the board. Here is part of the indictment. "Since 1900, the state board has made no changes in the local assessments for personal property (except one county in 1907); and in 1907, 1908 and 1909 no changes in the local valuations for lots. . . . . Finally in 1909 and 1910, the state board has not made a single change in the local assessments of any class of property." In 1911, again, the board made no changes in personal property assessments; and in 1912 the sole change was a ten per cent reduction in the assessed value of the lots in one county.

The fact that the board is a representative body is of itself almost enough to unfit it for its purpose. The theory seems to be that each member is elected to protect his own district. In 1895 Governor Altgeld charged that the activity of the board was "simply an effort by one or more sections of the state to throw the burden onto some other portion of the state" and the annual struggle of the members for a low classification of their counties seems to bear out the governor's charge.<sup>30</sup> To one who sees no force in the political arguments for the retention of the state board of equalization in its present form, it seems incomprehensible that the board should continue to exist. Almost, if not quite as expensive as a small, highly skilled, permanent commission, obviously inefficient in the work which it is expected to do, assailed by the testimony of its own members, convicted by the verdicts of both of the expert commissions to which the legislature has appealed for advice, the board still is able to retain its place as a part of the tax system.

<sup>28</sup>S. J., 47 G. A., 1 Sess., p. 184 *et seq.*

<sup>29</sup>Fairlie, *Report on Taxation*, p. 66.

<sup>30</sup>S. J., 39 G. A., 1 Sess., p. 23.

## EXTENSION OF TAXES.

When the state board has finished its work of equalizing the county assessments, the base of the tax is at last prepared for the extension of the rate. In Illinois the rate actually levied is a combination of state, county, city or village, road and bridge, school and various other rates, the amount of each being determined by the proper authority and certified to the county clerk who combines the rates and calculates the tax which each property owner must pay. The various taxing bodies are usually restricted in the rates they may levy by constitutional or legislative regulations; and the county clerk, when calculating the rate, is subject to the limitations of the Juul law.<sup>31</sup>

*The State Tax.*

The tax for state purposes forms a relatively insignificant part of the total rate. Thus in 1911 when the average rates of taxation of all the counties in the state was \$4.12 on each one hundred dollars valuation, the state tax was only thirty-five cents,<sup>32</sup> and while all the taxes in the state amounted to \$95,808,578.84, the tax for state purposes was but \$8,305,799.73. During the period under consideration the state rate has fallen as low as twenty-seven cents on the one hundred dollars (1879), and has risen as high as sixty-six cents (1897) and seventy cents (1913); but these figures mean little unless taken in conjunction with the degree of undervaluation present in those years. In 1913 the rate was levied upon a legal valuation of 33 1-3% of the cash value of property; actually the valuation was considerably lower than 33 1-3%. The high rate in 1913 is exceptional, the rate in 1911 having been but thirty-five cents and in 1912 but thirty-eight cents. It was due in part to increased appropriations and in part to a failure to levy a sufficiently high rate in 1912. A newspaper dispute has arisen between ex-Governor Deneen and Governor Dunne over the question of the responsibility for the in-

<sup>31</sup>*Infra*, p. 190 *et seq.*

<sup>32</sup>*Aud. Rep.*, 1911-12, pp. 199, 531.

adequacy of the revenue produced by the 1912 rate. It appears that only enough money was raised to meet expenses through June 30, 1913, making it necessary to resort to emergency methods to get funds to support the government until the collections on the assessment of 1913 should become available, in the spring of 1914. This necessity and the inordinately high tax rate have served to embarrass somewhat the new administration.<sup>33</sup>

During most of the period the state tax has been strictly an apportioned one. In the early history of the state most of the rates were specified; that is, certain rates for state purposes were fixed by statute, the proceeds from which formed the sums available to meet state expenses. Under this system the expenses tended to be accommodated to the income rather than the reverse. But since 1867 the state legislature has first made its appropriations and then directed that the sum necessary to meet the appropriations be apportioned among the counties, so that each county pays a *pro rata* share according to the value of its taxable property. The governor, auditor, and treasurer are designated in the revenue law as a committee to calculate the state rate annually on the completion of the assessment and equalization of property.<sup>34</sup> In fact, however, during most of the period the work seems to have been done by the governor and auditor alone, the act passed by the succeeding legislature specifying that these two officials calculate the rate required.<sup>35</sup>

It might be supposed that without a constitutional tax limit the legislature would appropriate unduly large sums. But as the scheme has worked out, instead of the appropriations being made without reference to the income expected, they have been very strictly controlled with a view to keeping down the state tax rate. The responsi-

<sup>33</sup>*The Chicago Tribune* and *The Chicago Record-Herald*, November 21, 1913.

<sup>34</sup>*L.* 1871-72, pp. 30, 31.

<sup>35</sup>From 1871 to 1903 the governor and auditor were the only officials designated. Since 1903 the treasurer has been included with the governor and auditor.

bility for the rate of taxation has come to rest very largely upon the shoulders of the governor and it has become one of his functions so to prune the appropriations as to make the state rate a political argument in favor of the efficiency of his administration. It is a question whether under this system the best interests of the state have not sometimes been sacrificed to political necessity.

As its formal authorization of the calculation of the total state rate, the legislature passes at each session "An act to provide the necessary revenue for state purposes." In the first place this act specifies that a sum which has varied from \$1,500,000 in 1872 to \$10,600,000 in 1913<sup>36</sup> be raised for general state purposes to be designated the "Revenue Fund." All through the period this part of the state rate has been an apportioned tax. Next, the act directs a second sum to be raised, called the "State School Fund," the amount of which has varied from \$700,000 in 1879<sup>37</sup> to \$3,000,000 in 1913.<sup>38</sup> This part of the tax has been apportioned since 1875, a lump sum being substituted at that time in lieu of the two mill tax formerly levied for school purposes.<sup>39</sup> The act for raising revenue passed in 1872 included a provision for raising \$200,000 annually for the Interest Fund, but the necessity for this soon disappeared and after 1874 no levy was made to replenish it. In 1911 the legislature took a step away from the apportionment plan by passing an act authorizing the levy of a fixed rate of one mill on every dollar of assessed valuation, to be paid to the treasury and set apart until appropriated to the use of the University of Illinois.<sup>40</sup> Although this plan reduces the flexibility of the state financial administration, it makes somewhat more certain a uniformity of support for the university, which is an end greatly to be desired. At times, special state taxes are levied, as in 1871 and 1872 when a levy of one and a half mills was

<sup>36</sup>*L.* 1871-72, p. 670; *L.* 1913, p. 512.

<sup>37</sup>*L.* 1879, p. 254.

<sup>38</sup>*L.* 1913, p. 512.

<sup>39</sup>*L.* 1871-72, pp. 31, 732.

<sup>40</sup>*L.* 1911, p. 484.

authorized for the "Canal Redemption Fund."<sup>41</sup> When a total rate has been calculated which will produce the amounts authorized to be levied for state purposes, the auditor certifies it to the county clerks who extend it upon the assessments for their counties as revised by the state board of equalization.

### *Local Rates.*

The amount of the county tax is determined each year by the county board.<sup>42</sup> It will be recalled that the rate must be kept within the constitutional limit of seventy-five cents on the hundred dollars. The counties may go above this limit, however, by special vote of the people or for the payment of indebtedness contracted before 1870.<sup>43</sup>

An investigation made in 1913 by Professor Fairlie shows that the constitutional limit is not always observed.<sup>44</sup> He states that:

in 1911 the rate in 34 counties was less than 45 cents, the minimum being 17 cents in Ogle County. In 18 counties the rate was the full 45 cents, provided under the Juul law. In 38 counties the county rate was more than 45 cents but less than the constitutional limit of 75 cents. In 12 counties the constitutional limit had been reached; and in two counties this was exceeded.

— The authorities of "towns, townships, districts, and incorporated cities, towns, and villages" are required to certify to the clerks of their counties the amounts which they require to be raised by taxation each year.<sup>45</sup> To analyze all the acts delegating the taxing power to these local bodies would be too great a task. In 1870 part of the municipalities of the state were organized under special charters and part under the general incorporation act. Consequently there was a great variety in the objects for

<sup>41</sup>L. 1871-72, p. 170.

<sup>42</sup>*Ibid.*, p. 31; L. 1909, p. 325.

<sup>43</sup>*Ibid.* Also L. 1873-74, p. 74; *Rev. Stat.* 1874, p. 307. Thus by an act of 1907 a county tax of one mill in addition to the constitutional limit was authorized for the establishment of detention homes. An appeal to the voters of the county was necessary for the levy, however.

<sup>44</sup>*Report Prepared for the Joint Committee of the Forty-Seventh General Assembly on County and Township Organization, Roads, Highways and Bridges*, II, 103.

<sup>45</sup>L. 1871-72, p. 31; L. 1873-74, p. 52.

which taxes could be levied, and this variety still obtains to a greater or less degree. Acts extending the functions of municipalities and permitting the levy of taxes to meet the expenses have been very frequent all through the period. Authorizations of taxes for water-works, sewage disposal plants, libraries, public hospitals, parks and boulevards, tuberculosis sanitariums, bridges, music in parks, etc. etc., are found in every volume of session laws. In many cases the laws only become operative upon vote of the citizens, so any calculation of the rates permitted would be a useless undertaking.

In the early years of the period there was considerable misunderstanding as to whether the revenue act of 1872 superseded the financial provisions of the various special municipal charters. A number of cities and towns, including Chicago, made their assessment for 1872 under the system provided in their special charters, and acts passed in 1873 legalized such assessments.<sup>46</sup> But soon this plan was declared invalid and since 1877 "all cities, villages, and incorporated towns, in this state, organized under general or special charters" have been required to assess and collect their taxes under the provisions of the act of 1872.<sup>47</sup>

The rate of taxation in cities and villages is subject to several checks. Aside from the debt limit of five per cent imposed by the constitution upon all local bodies, which is of course an indirect restriction on the tax rate,<sup>48</sup> the municipalities are required by an act of 1909 to keep their tax rate for all purposes except the payment of debt or interest within 1.2% on the equalized assessment for the current year.<sup>49</sup> In certain municipalities the rate for purposes other than schools or debt payment was to be sixty cents on the one hundred dollars of the equalized assess-

<sup>46</sup>*Ibid.*, p. 45; *Rev. Stat.* 1874, p. 254.

<sup>47</sup>The People *ex rel. v. Cooper et al.*, 83 Ill. 585 (1876); *L.* 1877, pp. 56, 61.

<sup>48</sup>*Supra*, p. 128.

<sup>49</sup>*L.* 1909, p. 141. The act excludes municipalities organized under special charters which permit a higher rate.

ment of the preceding year.<sup>50</sup> There had been no specific tax limit before 1879 but at this time an act was passed which imposed a limitation of two per cent for all purposes except debt payment. Another act in 1881 made the limit one per cent for purposes other than debt payment and the support of schools.<sup>51</sup>

Of the independent boards endowed with power to levy taxes, those in charge of the roads and the schools are the most important. In 1911, the district and city school taxes charged on the tax books amounted to nearly seventeen million dollars, and the road and bridge tax to almost six million.<sup>52</sup>

The complication which has been so long present in the road taxes due to the two ways in which the local communities may be organized, *viz.*, as township or county, has been largely eliminated by a new code passed in 1913.<sup>53</sup>

Under the old system there were two distinct codes, one for each form of organization. Counties organized by townships had the option of a labor or a cash system. This was not true of the other counties; they could only use the cash system.<sup>54</sup> If a township chose the cash system, the maximum levy was thirty-six cents.<sup>55</sup> On the other hand if the township chose the labor system, two taxes were levied; the road tax, payable in labor if desired, and the road and bridge tax, payable only in cash. It became necessary to make this arrangement in 1873 in order that a certain portion of the tax should be available in cash to meet the expenses of salaries, material etc. The maximum levy for each tax was twenty-five cents on each one hundred dollars of valuation.<sup>56</sup> Labor on the roads

<sup>50</sup>*Ibid.*, p. 142.

<sup>51</sup>*L.* 1879, p. 66; *L.* 1881, p. 59.

<sup>52</sup>School taxes—\$16,783,744.88; road and bridge taxes—\$5,732,019.97. *Aud. Rept.*, 1912, p. 193.

<sup>53</sup>*L.* 1913, p. 520 *et seq.*

<sup>54</sup>This statement does not take the poll tax into consideration.

<sup>55</sup>Formerly this rate was sixty cents. *L.* 1883, p. 136; *L.* 1909, p. 333.

<sup>56</sup>Formerly this rate was forty cents. *L.* 1883, p. 156; *L.* 1903, p. 304; *L.* 1909, p. 335.

was until 1913 valued at \$1.25 per day; from 1873 to 1877 it was \$1.50 per day. The rates given were not absolute limits; an additional rate might be levied by special arrangement when deemed necessary.<sup>57</sup> Moreover, if money was still needed for the particular purpose of paying damages, another twenty cents might be collected. A poll tax might also be used to obtain revenue. This resource has been constantly available except for the two years 1877-1879.

Counties which had not adopted the township form of organization could levy a road tax, payable only in cash, up to thirty cents per one hundred dollars of valuation.<sup>58</sup> From 1887 to 1889 the limit was one dollar and from 1889 to 1909, fifty cents.<sup>59</sup> But as in the case of the townships, this limit was not rigid.

Aside from all other road taxes, there might be levied in counties of both classes a special tax of one dollar on each one hundred dollars assessed valuation for the construction of macadam and gravel roads. But such a tax had to receive the sanction of a majority vote of the people.<sup>60</sup> Similarly, a tax of one-half of one per cent could be levied in counties not under township organization to build roads upon lands subject to overflow.<sup>61</sup>

The new general codification act passed in 1913<sup>62</sup> sweeps away the illogical and confusing distinctions between counties organized by townships and those with merely the county form of organization. Provision is made for the appointment of county superintendents of highways in all counties. For all road and bridge purposes, road districts in counties not under township organization were made coördinate with townships in other counties. In the country districts, except where the voters declare against it, a poll tax of from one to three dollars

<sup>57</sup>*L.* 1903, pp. 303, 304; *L.* 1909, pp. 333, 335.

<sup>58</sup>*Ibid.*, p. 331.

<sup>59</sup>*L.* 1889, p. 230.

<sup>60</sup>*L.* 1883, p. 132; *L.* 1905, p. 369; *L.* 1907, p. 503; *L.* 1909, p. 327.

<sup>61</sup>*L.* 1899, p. 340.

<sup>62</sup>*L.* 1913, p. 520 *et seq.*

is levied, payable only in cash. The general tax levy for road and bridge purposes is restricted to 61 cents on each one hundred dollars of taxable property. An additional levy of twenty cents may be made to pay damages for laying out roads etc. and the hard roads law of 1909 is retained.<sup>63</sup>

The importance of the labor element, as might be expected, became rapidly insignificant. In 1905 the money value of the labor tax was only about one-tenth of the total amount spent on road that year.<sup>64</sup> In 1913 this type of payment was eliminated.

The taxing power of the board of school directors<sup>65</sup> was modified by the law of 1872,<sup>66</sup> the school tax for ordinary expenses being limited to two per cent of the assessed valuation. Another three per cent was available for building purposes, upon vote of the people. In 1887 the state superintendent of public instruction, under the direction of the legislature, revised the school laws in order to eliminate their "many redundancies, inconsistencies, contradictions, and incongruities."<sup>67</sup> But the new general code adopted in 1889 preserved the former tax limits of two per cent for ordinary expenses and three per cent for buildings.<sup>68</sup> These limitations were extended to cities with special charters in 1891.<sup>69</sup>

In 1898 and 1899 the tax limits for ordinary expenses and for building purposes were changed to two and one-half per cent each,<sup>70</sup> and by a law passed in 1909, to one and one-half per cent,<sup>71</sup> at which figure they now stand. Certain cities are permitted by an act of 1913 to levy a two

<sup>63</sup>*Supra*, p. 186.

<sup>64</sup>*Report of the Illinois Highway Commission*, 1906, p. 15.

<sup>65</sup>*Supra*, p. 120.

<sup>66</sup>*L.* 1871-72, p. 718.

<sup>67</sup>*L.* 1887, p. 324.

<sup>68</sup>*L.* 1889, p. 288.

<sup>69</sup>*L.* 1891, p. 197.

<sup>70</sup>*L.* 1898, p. 36; *L.* 1899, p. 350.

<sup>71</sup>*L.* 1909, p. 394.

per cent rate for educational purposes if the voters agree.<sup>72</sup> Taxes for township high-schools are determined by township boards of education provided by an act of 1889.<sup>73</sup>

Most of the parks in Illinois are located in Chicago. Before 1872 they were controlled by special acts of the legislature but after the adoption of the constitution of 1870 the form of the park laws necessarily became general. But in spite of their general form most of the acts are still special in application. Almost every bill is drawn with some particular case in view and the ingenuity of the drafters is exercised so to shape their form as to bring them within the constitutional requirements. Consequently the park laws are a maze. Unless one is very familiar with local conditions it is often impossible to tell from the evidence in the statute itself what they mean, and to whom they are intended to apply.

Corporate authorities in municipalities have long been vested with power to maintain parks, but a general law providing for the formation of park districts and the election of a park commission with general powers of taxation seems not to have been passed until 1893.<sup>74</sup> In 1885 boards of park commissioners existing by virtue of various special acts were empowered to levy a light tax on property to meet certain expenses.<sup>75</sup> But park districts organized under the act of 1893 were to be supported primarily by the general property tax. No tax limit was fixed in the original statute; and no restriction was placed upon the debt which might be contracted until 1895, when it was placed at two and one-half per cent of the equalized value of the taxable property.<sup>76</sup> Another general park law passed in 1895 permitted taxation at the rate of four mills on the dollar.<sup>77</sup> In 1907 the so-called township park act was passed which provides for a one mill tax on property.<sup>78</sup>

<sup>72</sup>*L.* 1913, p. 585.

<sup>73</sup>*L.* 1889, p. 277.

<sup>74</sup>*L.* 1893, p. 153.

<sup>75</sup>*L.* 1885, p. 226.

<sup>76</sup>*L.* 1895, p. 268.

<sup>77</sup>*Ibid.*, p. 272.

<sup>78</sup>*L.* 1907, p. 437.

After the adoption of the constitution of 1870, drainage legislation also assumed a general form. Numerous laws were passed regulating taxation for this purpose. Some of the money is raised by the general property tax,<sup>79</sup> the law in force at present permitting a two per cent levy and an additional three per cent under special circumstances. But much more important is the share raised by the system of special assessments. It is usual for drainage projects to be initiated by a petition of property holders and after the assent of the voters of a district has been secured, to be supported by a levy upon the property benefited, sometimes according to the benefit received, sometimes according to the value of the property.

The latest addition to the ranks of special boards exercising taxing powers is made by acts passed in 1905 and 1909 which authorize the creation of forest preserve districts.<sup>80</sup> The present law permits a tax of one mill on the dollar and makes the debt limit one per cent of the assessed valuation.

### *The Juul Law.*

When at length the county clerk is in possession of the necessary information, he proceeds to assemble the rates of taxation for his county. He has already entered into the collectors' books the lists of the taxable property as received and equalized.<sup>81</sup> The state rate comes to him in the form of a percentage which is to be levied on the assessment as equalized by the state board.<sup>82</sup> The county rate is also already calculated when it reaches the clerk but it is to be extended upon the assessment as it stands after the county review only.<sup>83</sup>

The officials of the "towns, townships, districts, and incorporated cities, towns and villages" send to the county

<sup>79</sup>L. 1889, p. 125. Also an act of 1907, entitled "an act to create sanitary districts in certain districts subject to overflow." L. 1907, p. 289.

<sup>80</sup>L. 1905, p. 279. L. 1909, p. 245.

<sup>81</sup>L. 1871-72, p. 32.

<sup>82</sup>L. 1901, p. 271.

<sup>83</sup>*Ibid.*

clerk merely the amount of money they require for the ensuing year, and it is part of his task to calculate the rate upon the taxable property lying within their respective jurisdictions. Here also, the assessment as reviewed by the county board of review forms the base.<sup>84</sup>

The dangers of the system as instituted in the law of 1872, by which there was no coördination or control of the amounts levied by the various taxing authorities, were pointed out by the revenue commission of 1886.<sup>85</sup> The property owner was exposed to the possibility of being taxed at the rate of eight per cent or more. No discretionary power was placed in the hands of the county clerk. His function consisted merely of the mechanical task of calculating and extending the rates. There was no one person responsible for a high or low rate of taxation. To prevent taxes from becoming unreasonable a provision was included in act of 1898<sup>86</sup> which vested the county clerk with power so to cut down the amounts asked by the various local taxing bodies as to bring the aggregate within reasonable bounds. As the result of amendments made in 1901, 1905, 1909 and 1913, the section designed to accomplish this purpose has reached a state of complexity which can be appreciated only by reading the text itself. This is the so-called Juul law:

The county clerk in each county shall ascertain the rates per cent required to be extended upon the assessed valuation of the taxable prop-

<sup>84</sup>Both state and county taxes were at first levied on the assessment as equalized by the state board. *L.* 1871-72, p. 33. In 1879 "all taxes levied by the proper authorities" were to be upon this base. *L.* 1879, p. 246. In 1881 a change was made back to the old arrangement, *L.* 1881, p. 136, and it was not until 1901 that the present form was adopted under which only the state taxes are levied on the state equalized assessment and all other taxes upon the assessment as it stands after the county review. *L.* 1901, p. 271.

<sup>85</sup>*Report*, p. v.

<sup>86</sup>The section passed in 1898 applied only to Cook County. *L.* 1898, p. 36 *et seq.* The aggregate of taxes was to be not more than five per cent, except for state and for school building purposes. A debt limit of two and one-half per cent was also imposed. This section was held to be unconstitutional on the ground that it singled out Cook County and was therefore a special law. *Knopf v. People*, 185 Ill. 20 (1900). The section was reenacted in general terms in 1901.

erty in the respective towns, townships, districts, incorporated cities and villages in his county, as equalized by the State Board of Equalization for the current year, to produce the several amounts certified for extension by the taxing authorities in said county (as the same shall have been reduced as hereinbefore provided in all cases where the original amounts exceed the amount authorized by law): *Provided, however,* that if the aggregate of all the taxes (exclusive of state taxes, village taxes, levee taxes, school building taxes, high school taxes, district school taxes and all other school taxes in school districts having not more than 100,000 inhabitants, road and bridge taxes, and for a period of three (3) years beginning with the year 1913 taxes levied for the payment of the principal of and the interest on bonded indebtedness of cities, and exclusive of taxes levied pursuant to the mandate or judgment of any court of record on any bonded indebtedness), certified to be extended against any property in any part of any taxing district or municipality, shall exceed three per cent of the assessed valuation thereof upon which the taxes are required to be extended, the rate per cent of the tax levy of such taxing district or municipality shall be reduced as follows: The county clerk shall reduce the rate per cent of the tax levy of such taxing district or municipality in the same proportion in which it would be necessary to reduce the highest aggregate per cent of all the tax levies (exclusive of state taxes, village taxes, levee taxes, school building taxes, high school taxes, district school taxes and all other school taxes in school districts having not more than 100,000 inhabitants, road and bridge taxes, and for a period of three (3) years beginning with the year 1913 taxes levied for the payment of the principal of and the interest on bonded indebtedness of cities, and exclusive of taxes levied pursuant to the mandate or judgment of any court of record on any bonded indebtedness), certified for extension upon any of the taxable property in said taxing district or municipality, to bring the same down to three per cent of the assessed value of said taxable property upon which said taxes are required by law to be extended: *Provided, further,* that in reducing tax levies hereunder the rate per cent of the tax levy for county purposes in counties having a population of over 300,000 shall not be reduced below a rate of forty cents on each one hundred dollars assessed value, and in counties having a population of less than 300,000 the rate of the tax levy for county purposes shall not be reduced below a rate of forty-five cents on each one hundred dollars assessed value, and the rate per cent of the tax levy for city or village purposes (exclusive of library, school and park purposes and for a period of three (3) years beginning with the year 1913 exclusive of the taxes levied for the payment of the principal of and the interest on bonded indebtedness) in cities and villages having a population of over 150,000 shall not be reduced below a rate of one dollar and ten cents on each one hundred dollars assessed value, and the rate per cent of the school tax for educational purposes shall not be reduced

below a rate of one dollar and five cents on each one hundred dollars assessed value, and the rate per cent of the tax levy for city or village purposes (exclusive of library, school and park purposes, and exclusive of the taxes levied for the payment of the principal of and the interest on bonded indebtedness) in cities and villages having a population of less than 150,000 shall not be reduced below a rate of one dollar and twenty cents on each one hundred dollars assessed value, and the rate per cent of the school tax levy for educational purposes shall not be reduced below a rate of one dollar and fifty cents on each one hundred dollars assessed value, but the other taxes which are subject to reduction under this section shall be subject only to such reduction respectively, as would be made therein under this section if this proviso were not inserted herein: *And, provided, further*, in reducing tax levies hereunder all school taxes levied in cities exceeding 150,000 inhabitants, with the exception of the levy for school building purposes, shall be included in the taxes to be reduced.

The rate per cent of the tax levy of every county, city, village, town, township, park district, sanitary district, road district, and other public authorities (except the state), shall be ascertained and determined (and reduced when necessary as above provided), in the manner hereinbefore specified, and shall then be extended by the county clerk upon the assessed value of the property subject thereto (being one-third of the full value thereof) as equalized according to law. In reducing the rate per cent of any tax levy, as hereinbefore provided, the rates per cent of all tax levies certified to the county clerk for extension as originally ascertained and determined under section one of this act, shall be used in ascertaining the aggregate of all taxes certified to be extended without regard to any reductions made therein under this section: *Provided*, that no reduction of any tax levy made hereunder shall diminish any amount appropriated by corporate or taxing authorities for the payment of the principal or interest on bonded debt, or levied pursuant to the mandate or judgment of any court of record. And to that end every such taxing body shall certify to the county clerk with its tax levy, the amount thereof required for any such purposes.

In case of a reduction hereunder any taxing body whose levy is affected thereby and whose appropriations are required by law to be itemized, may, after the same have been ascertained, distribute the amount of such reduction among the items of its appropriations, with the exceptions aforesaid, as it may elect. If no such election be made within three months after the extension of such tax, all such items, except as above specified, shall be deemed to be reduced *pro rata*.<sup>87</sup>

<sup>87</sup>The law as it stood in 1909 differed from the present law in that "district school taxes and all other school taxes," etc. were not included in the excluded rates and that the taxes for bonded indebtedness in the excluded group were more strictly defined. L. 1913, p. 517; L. 1909, p.

In the report prepared for the tax commission of 1910 the Juul law is criticized because it is so "highly complicated."<sup>88</sup> That this criticism is well grounded will be conceded upon reading the law. Even the officials who administer it often fail to understand it. This at least seems to be the best explanation for the illegal rates extended so frequently in Illinois. Rates above the limits prescribed by law are levied annually in almost every county of the state, and railways and other large tax payers find it to their advantage to employ attorneys to investigate the rates levied and secure abatements. Mr. John N. Wheatley, who has for years been employed by a number of railroads to protect their interests in this direction, states that on the average about five per cent of the total taxes assessed in Illinois are illegal and excessive and that a deduction of this amount is annually obtained by the railroads.<sup>89</sup> Surely this a strong argument in favor of the

323. Moreover the amendment of 1909 made few changes in the law as it stood after the revision of 1905. *L.* 1905, p. 365. District school taxes, which had been included among the taxes excluded from reduction, were now omitted. The percentages were so changed as to accommodate them to the new assessment basis of one-third. The bonded indebtedness limit was made six per cent in place of ten per cent; the tax limit three per cent instead of five per cent. The distinction in rates between counties and cities on the basis of their population was new. The limit of reduction for counties was made forty-five cents and forty cents; under the old law it was sixty-five cents. The limit for cities was reduced from \$1.80 to \$1.20 and \$1.10. The law as it stood after the amendment of 1905 differed from the 1901 law only in that it contained the proviso protecting the city and county rates from too great a reduction. *L.* 1901, p. 272. Moreover, the law of 1901 made it the duty of the county clerk to scrutinize the taxes certified to him by the various authorities to ascertain whether they exceeded the limits provided in the statutes. In any case where the limits had not been respected the clerk was authorized to disregard the excess and treat the residue as the amount certified for extension. *L.* 1901, p. 272. The Juul law has received the approval of the state supreme court. *The People v. The Chicago and Western Indiana Railroad Co.*, 256 Ill. 388 (1912).

<sup>88</sup>Fairlie, *Report on Taxation*, p. 16.

<sup>89</sup>This estimate was kindly furnished by Mr. Wheatley in a letter, dated Oct. 28, 1911.

creation of a permanent tax commission, which could, as a part of its duty, at least make sure that the provisions of the law were understood by the clerks and properly administered by them.

After the rate has been determined the clerk enters the amounts of the taxes due in the collector's book and gives the collector a warrant to collect the taxes and to pay them over to the officers entitled to receive them.<sup>90</sup>

#### COLLECTION OF TAXES.

The administrative machinery for the collection of taxes had been quite well worked out by 1872, and the revenue law passed at that time has been but slightly amended since. The most minute details are specified so that this portion of the code is disproportionately large in respect to its importance for the purposes of this study.

#### *Collectors.*

The treasurers in counties under township organization and the sheriff in other counties are the *ex-officio* county collectors.<sup>91</sup>

Collections are made, in counties with townships, by township collectors, elected biennially, and in other counties, by the sheriff.<sup>92</sup>

All collectors are bonded, township and district collectors to twice the amount of all taxes to be collected by them and county collectors to twice the amount of the state tax levied in their county.<sup>93</sup>

The remuneration of the collectors has through the entire period been on a fee basis; the fees of county collectors vary from one and one-half to three per cent, according to the population of the counties, the highest percentage being allowed in the very small counties. In counties under township organization the collector re-

<sup>90</sup>L. 1881, p. 136.

<sup>91</sup>L. 1871-72, p. 35; *Rev. Stat.*, 1874, p. 455.

<sup>92</sup>L. 1871-72, pp. 38, 39. A law passed in 1883 permitted the combination of the offices of treasurer and township collector. L. 1883, p. 174.

<sup>93</sup>L. 1871-72, pp. 33-38, 59.

ceives a smaller percentage as a commission on the collections of the township collectors.<sup>94</sup> The township collectors receive two per cent of the sums collected by them as their compensation.<sup>95</sup>

### *Collections and Settlements.*

After the collectors have received from the clerks of their counties the tax books properly filled out, with a warrant attached, they proceed to collect the taxes, the township collectors being required by law to call at least once at the residence or place of business of the property owner, and the district collector to advertise through newspaper and posted notices where and when he will receive taxes.<sup>96</sup> Actually, however, even in the township counties, the collector seldom makes personal calls to collect the taxes, relying almost entirely upon newspaper and post card notices to bring the tax payers into his office.

Each month the township and district collectors pay to the proper authorities of the local taxing bodies their collections to date.<sup>97</sup> At the same time they pay over the county and state taxes to the county collectors. The county collectors report monthly to the county treasurers (the same person in most of the counties) the amount of county taxes received by them and available for use.<sup>98</sup>

At the end of the collection period and after a twenty day notice, the town and district collectors are required to appear before the county collector and make final settlement of the collections which have been delegated to them.<sup>99</sup> The balance of the money collected is at this time paid over and credits are allowed for delinquents. The county collector is expected immediately to make a preliminary settlement with the state officials for the state taxes and

<sup>94</sup>*Ibid.*, p. 437; *L.* 1877, p. 105.

<sup>95</sup>*L.* 1871-72, p. 444.

<sup>96</sup>*Ibid.*, pp. 33, 34, 35, 39; *L.* 1873-74, p. 52; *L.* 1879, p. 246; *L.* 1881, p. 130; *L.* 1898, p. 36; *L.* 1907, p. 500; *L.* 1911, p. 485.

<sup>97</sup>*L.* 1871-72, p. 41; *L.* 1873-74, p. 52. At first it was every twenty days.

<sup>98</sup>*L.* 1871-72, p. 67.

<sup>99</sup>*Ibid.*, p. 42. *L.* 1873, p. 52; *L.* 1881, p. 131. These amendments varied the date for the final settlement.

then to turn his attention to the delinquent list. After he has collected all the delinquent taxes possible he proceeds to make his final settlement with the county board,<sup>100</sup> and with the state auditor.<sup>101</sup>

*Tax Lien and Tax Sales.*

The collection of taxes is enforced by a lien upon the real or personal property assessed. If a person does not pay his taxes the township or district assessor may sell his personal property to make good the amount.<sup>102</sup> In case taxes are still unpaid when the township and district collectors make their final settlement, the taxes are declared delinquent, interest is charged upon them and application is made to the county court for judgment against the real estate of persons with unpaid taxes.<sup>103</sup>

The application of the tax lien to real and personal property is somewhat complicated. Personal property is liable for taxes levied on real property and *vice versa*. But the tax on personal property may not be charged against real estate except in case of removals or when the tax can not be made out of the personal property. On the other hand, a tax levied on real estate may be made out of personal property at any time after it becomes due.<sup>104</sup> In actual practice, however, the collector seldom sells personal property to make good a tax on real estate; indeed it is seldom that he sells personal property even to enforce the personal property tax itself, contenting himself merely with reporting all delinquencies to the county collector.

After a five day notice personal property may be sold for taxes by collectors at public auction.<sup>105</sup> The procedure for the sale of real estate is more formal and involved. The county collector must advertise in the newspapers his intention to apply to the county court for judgment against

<sup>100</sup>In some instances this is done through the county clerk. *L.* 1871-72, pp. 55-56.

<sup>101</sup>*Ibid.*, p. 57; *L.* 1873-74, p. 56.

<sup>102</sup>*L.* 1871-72, pp. 35, 39, 59; *L.* 1873-74, p. 52.

<sup>103</sup>*L.* 1871-72, pp. 43, 59; *L.* 1873, p. 52; *L.* 1879, p. 253; *L.* 1881, p. 130.

<sup>104</sup>*L.* 1871-72, p. 59.

<sup>105</sup>*Ibid.*, p. 40.

the real estate on which taxes are unpaid or which is owned by persons whose personal property tax is unpaid.<sup>106</sup> He must also advertise the date on which he intends to sell the land. The collector prepares what is known as "the tax judgment sale, redemption and forfeiture record," entering into it a list of the delinquent lands and lots.<sup>107</sup> The court examines this delinquent list and pronounces judgment, directing the clerk to order the sale of the property.<sup>108</sup> Any time before the day of the sale the property owner, by paying his taxes plus the interest and costs which may have accumulated, may forestall the sale of his real estate.<sup>109</sup> On the day of the sale the collector and clerk carefully check up the delinquent list to make sure that all payments are entered and the clerk then proceeds formally to order the sale in accordance with the direction of the court.<sup>110</sup>

The collector, assisted by the clerk, then offers the tracts for sale at the county court house. Under the law as originally passed the sale was made to the person who, in return for the amount due in taxes, offered to accept the least quantity of the tract.<sup>111</sup> In 1895 this was changed so as to make the successful bidder the man who, for paying the tax, would agree to exact the least percentage of penalty from the original owner, should he wish to redeem the property.<sup>112</sup> No bid of a penalty exceeding twenty-five per cent is accepted. In practice, most of the sales are made at this figure. A record of the sales is entered and a copy forwarded to the state auditor.<sup>113</sup>

<sup>106</sup>*Ibid.*, pp. 44, 45; *L.* 1873-74, p. 53.

<sup>107</sup>*L.* 1871-72, p. 46; *L.* 1879, p. 248.

<sup>108</sup>*L.* 1871-72, p. 47; *L.* 1873-74, p. 54.

<sup>109</sup>*L.* 1871-72, p. 46; *L.* 1879, p. 249.

<sup>110</sup>*L.* 1871-72, p. 48; *L.* 1879, p. 249.

According to the law as passed in 1872 the order for the sale of the lands was given by the court on the day of judgment. By the amendment of 1879 the land was not ordered to be sold until the day of the sale.

<sup>111</sup>*L.* 1871-72, p. 49.

<sup>112</sup>*L.* 1895, p. 298.

<sup>113</sup>*L.* 1871-72, p. 50.

*Redemption.*

The document given to a successful bidder at a tax sale is but an agreement for the transfer of title after the redemption period of two years has passed.<sup>114</sup> For the first six months after the sale, the redemption conditions include only payment of the amount for which the land was sold, plus the taxes accumulated since the sale, with interest and the penalty bid by the purchaser. But if the redemption is deferred, the penalty is doubled from the sixth to the twelfth month, trebled from the twelfth to the eighteenth, and quadrupled from the eighteenth month to the end of the period. The redemption period is extended in the case of property belonging to minor heirs, idiots, and insane persons.<sup>115</sup> If at the end of the period the land has not been redeemed and the prescribed notices have been served upon the owners and occupiers of the land, a deed is given to the purchaser.<sup>116</sup> But the deed must be taken out and recorded within one year after the redemption period has expired or it can never be taken out at all.<sup>117</sup> Moreover, unless the holder of the tax deed takes possession of the property within one year after the date of his deed, the original owner of the real estate may repay him his money outlay and receive back his real estate.<sup>118</sup>

*Property Forfeited to the State.*

If land offered for sale fails to find a purchaser for lack of bidders, it is forfeited to the state. The following year, if the taxes are still unpaid, the land is again offered for sale with the taxes of the new year added with interest and penalties. In cases where the taxes amount to a sum

<sup>114</sup>L. 1895, p. 109.

<sup>115</sup>*Ibid.*, p. 258. The law of 1872 originally specified twenty-five per cent as the penalty to be imposed during the first six months, fifty per cent during the second, seventy-five per cent during the third, and one hundred per cent during the fourth. L. 1871-72, p. 50.

<sup>116</sup>L. 1879, p. 256.

<sup>117</sup>L. 1871-72, p. 53.

<sup>118</sup>L. 1909, p. 146.

larger than the value of the land, the land is sold for what it will bring<sup>119</sup> and the amount received is distributed *pro rata* among the taxing authorities. Lands forfeited to the state may be redeemed by paying the charges against it plus various fees and penalties.<sup>120</sup>

On the whole the machinery for the collection of taxes seems to work smoothly. Until recently, except for some agitation for the abolition of the office of township collector, there has been little manifestation of dissatisfaction with the system in vogue.<sup>121</sup> During 1913, however, the delay of collectors in making settlements was the source of considerable complaint. It has been charged that county collectors in some cases delay settlements with the state auditor in order to put out the money at interest. The auditor should be furnished with means of forcing prompt settlements.<sup>122</sup>

<sup>119</sup>L. 1881, p. 137.

<sup>120</sup>L. 1871-72, p. 54; L. 1879, p. 254.

<sup>121</sup>Fairlie, *Report on Taxation*, p. 17.

<sup>122</sup>*Chicago Tribune*, November 24, 1913.

## CHAPTER XI

### THE TAXATION OF CORPORATIONS

There have been evolved in Illinois a number of special devices to assist in the assessment of corporations. The ordinary methods have been at least partly discarded for some types of business corporations, for banks, for railroads, and for telegraph and insurance companies.

#### THE CORPORATE EXCESS PLAN.

A special effort was made under the law of 1872 to reach the intangible property of ordinary business corporations. All property which could be listed in the ordinary manner by the local assessors was to be taxed in that way, but in addition a special assessment was to be made by the state board of equalization. The framers of the law seemed to believe that the value that accrued to corporations as a result of the fact that the state had granted them the right to do and to act was a value that could not be reached by the local assessors using the ordinary methods. In order to reach it, it was arranged that the value of the securities of the corporation should be taken as the full value of the concern and that in case this amount exceeded the assessed value of the tangible property, the difference or corporate excess should be added to the assessment roll by the state board of equalization.<sup>1</sup>

#### *Corporations subject to State Assessment.*

Not all corporations are assessed by the state board under the corporate excess plan. In 1875, "companies and associations organized for purely manufacturing purposes

<sup>1</sup>For details as to the manner of assessment, see *infra*, p. 202. The discussion of the taxation of corporations is made more brief than would have been done, were it not for the monograph of J. R. Moore recently published, entitled, *The Taxation of Corporations in Illinois since 1872*. University of Illinois Studies in the Social Sciences, Vol. II, No. 1.

or for printing, or for publishing of newspapers, or for the improving and breeding of stock," were released from assessment by the state board.<sup>2</sup> Companies organized for the purpose of mining and selling coal were excepted in 1893.<sup>3</sup> These acts did not excuse such corporations from all assessment on capital stock and franchise values; it merely took the power of assessing these values out of the hands of the state board of equalization. But this was generally construed to mean complete exemption. In 1905, however, the legislature went further and specifically exempted the capital stock of corporations organized "for purely manufacturing and mercantile purposes, etc.," not only from assessment by the state board of equalization but from assessment by local assessors as well.<sup>4</sup> This move of the legislature was promptly blocked by the courts in a decision which declared such exemptions were not authorized by the constitution.<sup>5</sup> The assessment of the value of the capital stock and franchises of such companies is thus thrown back upon the local assessors; the capital stock of the corporations must be assessed locally or not at all.<sup>6</sup> These local assessors in the past have done even less than the board of equalization, to reach these values, so that by being turned over to them, the corporations have little to fear.

The local assessor lacks power to compel the corporation to give information necessary for a proper valuation. He also has difficulty in many cases in deciding whether a given corporation falls under his jurisdiction or that of the board of equalization. The legal test, which is the

<sup>2</sup>L. 1875, p. 35.

The law reads that they shall be assessed as individuals. In 1879 (L. 1879, p. 251) the exemption was made more distinct, such companies being left "to be assessed by the local assessors." The law of 1879 was made necessary because of a discussion which had arisen in the board of equalization. Moore, *op. cit.*, pp. 65-66.

<sup>3</sup>L. 1893, p. 172.

<sup>4</sup>L. 1905, p. 353.

<sup>5</sup>Consolidated Coal Co. v. Miller, 236 Ill. 149 (1908); cf. The People v. The National Box Co., 248 Ill. 141 (1911).

<sup>6</sup>The People v. Federal Security Co., 255 Ill. 561 (1912).

purpose expressed in the corporate charter, is often a very inaccurate standard of the kind of business a corporation is actually carrying on. The situation is necessarily productive of much friction and is a prolific source of litigation.

In addition to the companies named above, homestead loan associations have been beyond the power of the state board of equalization since 1891.<sup>7</sup> Moreover, foreign corporations are not, of course, taxed in this manner.<sup>8</sup> These exemptions leave as the most prominent types of corporations subject to the board's jurisdiction in this particular, railroad, telegraph, gas and electric companies and companies organized for loan, insurance (domestic), bridge, dredging, hotel, storage, laundry, amusement, hardware, dry goods, provision, restaurant and dairy purposes.<sup>9</sup>

The framers of the law of 1872 decided not to tax to the individual owners the shares of the stock of corporations which are taxed on their corporate excess. The legality of such an exemption seems to be doubtful.<sup>10</sup>

#### *Assessment Methods.*

To enable the state board of equalization to estimate the corporate excess of the concerns falling under its jurisdiction, it is provided that certain information be supplied by the corporations to the local assessors who give it to the county clerk to be forwarded to the state auditor for the use of the board. This statement of information must include the amount of the capital stock of the corporation and its market or actual value, the amount of the funded debt,<sup>11</sup> and the assessed valuation of the property locally assessed.

<sup>7</sup>L. 1891, p. 89.

<sup>8</sup>But a foreign corporation operating a domestic corporation under a lease must return statements. Moore, *op. cit.*, p. 20; Postal Telegraph Cable Co. v. Bernard, 37 Ill. App. 105 (1890).

<sup>9</sup>State banks organized under special charter rather than under general law were assessed on corporate excess until 1893. L. 1893, p. 172.

<sup>10</sup>Moore, *op. cit.*, pp. 103-104.

<sup>11</sup>More specifically, this consists of the total amount of indebtedness, except the indebtedness for current expenses, excluding from such ex-

The board may supplement these statements with information from other sources. By rules of its own adoption,<sup>12</sup> it estimates the value of the securities of the company, equalizes this estimate, sets down the total assessed value and compares it with the equalized assessed value of the tangible property. If the value of the tangible property is not so great, the difference is added and taxed as capital stock. The amount of this excess is certified to the county authorities to be added to the assessment lists.

### *Efficiency of Assessments.*

Great difficulty has always been experienced by the state board of equalization in securing from the corporations the prescribed information about their capital stock, funded debt, and assessed value of their tangible property. Even when successful in obtaining them, the reports have very often been defective, being altered in

penses the amount spent for the purchase or improvement of property. *L.* 1871-72, p. 11; *L.* 1879, p. 252; *L.* 1905, p. 353.

<sup>12</sup>The rules for determining the value of the capital stock of corporations have been changed three times since their primary adoption in 1873. In 1900 radical changes were made but were declared invalid by the courts in the Teachers' Federation case. *Infra*, p. 206. The rules in force at present were adopted in 1909 but differ very slightly from the ones originally adopted in 1873. They provide that the fair cash value of the shares of capital stock shall be determined, "consideration being given, among other things, to the value of the shares of the stock and the quotations of such shares in the market over such period of time as may be reasonable, also the books of said corporations and the returns made to the auditor of public accounts, or such other information as the board may have or be able to obtain." To this sum shall be added the amount of indebtedness, except that for current expenses. The board shall then equalize the amount "so that said companies or associations shall be assessed as near as practicable upon a uniform basis with other property throughout the state." From the aggregate amount so determined shall be deducted the assessed and equalized valuation of the tangible property of the corporation and one-third of the result, if any, is taken as "the assessed value of the capital stock of such corporation or association, including the franchise, over and above the tangible property thereof." Fairlie, *Report on Taxation*, p. 93.

many cases with a view to reducing the corporate excess. For example, when the law first went into effect, many managers, under the impression that the debt item would be used to offset the valuation placed on the capital stock, expanded the amount of their debt. But such doctoring had an effect exactly opposite from that expected. Instead of being used as an offset, the bonded debt was added to the stock to secure the total valuation for the corporation.<sup>13</sup> Needless to say, as soon as what was being done became known, doctoring of this particular kind came to a sudden halt.

Neglect or refusal to report still persists. The penalty provided in such cases is light enough to be ignored. When the report is not furnished by the corporation, the assessor is supposed to make it; many times he does not. Sometimes the county clerks do not bother to transmit such reports as have been gathered by the assessors in their counties; in 1900 the clerks in more than half the counties in the state neglected to do so.<sup>14</sup> During the early years the board held special hearings and summoned before it the officials of corporations concerning whose affairs information was desired. But before long it was found that no power rested in the board to compel the attendance of representatives of corporations; under these conditions it was found idle to continue the examinations. Nothing has been done in the past thirty years toward giving the board this power.

Recognizing that undervaluation exists in the assessment of all other kinds of property, the state board of equalization feels that it is compelled to undervalue the stocks and bonds reported to it. If uniformity in the assessment, as provided by the constitution, is to be attained, it is difficult to see what other procedure could be followed. But it can be followed only by sacrificing the requirement of the revenue law which calls for a fair cash valuation. However, the undervaluation of this type of property was,

<sup>13</sup>Moore, *op. cit.*, p. 24.

<sup>14</sup>*Pro. St. Bd. Eq.*, 1900, p. 17.

in a sense, recognized by the laws of 1898 and 1909<sup>15</sup> which prescribed that the assessed valuation of all property should be placed at a fraction of its cash value. Since this time, as undervaluation has been carried still further, the board has endeavored to keep on approximately the same level as the local assessors.

TABLE 18.

ASSESSMENTS OF CORPORATE EXCESS BY THE STATE BOARD OF EQUALIZATION,  
1873-1912. (a)

	Net Assessed Value of Capital Stock	Number of Corporations Assessed
1873 .....	\$20,730,057	206
1874 .....	11,719,216	224
1875 .....	4,802,112	100
1880 .....	2,179,460	29
1885 .....	3,791,623	114
1890 .....	6,956,909	314
1895 .....	4,782,509	275
1900 (b) .....	4,808,630	334
1901 .....	21,477,943	749
1902 .....	22,705,627	1988
1903 .....	15,116,104	1520
1904 .....	13,032,412	1442
1905 .....	12,942,970	1218
1906 .....	12,665,601	1832
1907 .....	10,608,000	1302
1908 .....	18,683,448	1281
1909 .....	35,394,441	1168
1910 .....	30,265,148	2154
1911 .....	30,568,450	930
1912 .....	27,734,277	780

(a) Compiled from *Pro. St. Bd. Equal.* and Fairlie, *op. cit.*, p. 224.

(b) Original assessment.

The actual work of assessing the corporate excess falls to one of the committees of the board, the capital stock committee, and the activity of the board as a whole is limited in practice to approving the report of this committee. It is only in the rarest cases that any change is made in the committee reports. The other members of the board seldom know what is being done by the capital stock committee and it is charged that their votes are asked in ap-

<sup>15</sup>*Cf. supra*, p. 103.

proval of the report without adequate time for them to consider the justice of the assessments recommended.<sup>16</sup>

Just criticism may be directed toward the reports of the board. They vary in the data presented from year to year and seldom are all the facts presented which are essential to a judgment of the efficiency of the assessment.<sup>17</sup>

Table 18 shows the assessed value of the capital stock of corporations other than railroads, as assessed by the state board in the years given, and also the number of corporations found to have a corporate excess.

The large assessment for 1873 has already been partly explained by the statement that much bonded indebtedness was reported under the misapprehension that it would be used to offset the assessment of the capital stock.<sup>18</sup> By 1877, in four years, the assessment had shrunk from \$20,730,057 to \$1,605,783; but part of the shrinkage is accounted for by changes in the interpretation of the law which exempted certain companies formerly assessed.

#### *Teachers' Federation Case.*

The great increase in the assessment of 1901 was due directly to the interference of the courts as the result of litigation instituted by the Teachers' Federation of Chicago. In 1899 and 1900 the work of the schools in Chicago had been somewhat hampered by the lack of funds.<sup>19</sup> What was most to the point was the announcement by the board of education that it would be unable to carry into effect a new scale of salaries for the teachers which had been adopted in 1898. Looking about for a means of relief, the Teachers' Federation investigated revenue conditions and soon uncovered grave abuses in the assessment of property. The assessment of corporate excess by the state board of equalization was chosen as the most promising

<sup>16</sup>Moore, *op. cit.*, p. 45 *et seq.*

<sup>17</sup>Evidence on this point may be found in Moore, *op. cit.*, p. 45 *et seq.*, and Fairlie, *op. cit.*, pp. 61-63.

<sup>18</sup>*Supra*, p. 204.

<sup>19</sup>*Chicago Tribune*, Oct. 14, 1900.

point of attack. Here a large increase of revenue could be hoped for without antagonizing the general public by an increase in the tax rates. The methods of the board were notoriously lax and the federation found little trouble in finding specific evidence of gross errors in assessment. Twenty-three public-service corporations were chosen for attack in a test case. It was claimed by the teachers that the real value of the securities of these companies was \$268,108,312. They were taxed on the merest fraction of this amount by the local assessors and yet most of them were assessed nothing at all on their corporate excess by the state board. By resorting to mandamus proceedings the teachers compelled the assessors to secure the assessment data from the corporations,<sup>20</sup> and to forward them to the state board of equalization. Then they petitioned the board to assess the corporations on their corporate excess according to their own rules, adopted in 1873.<sup>21</sup> The board, upon receiving legal advice to the effect that, as a body having judicial power, it was not forced to assess the companies, ignored the petition.<sup>22</sup> The teachers in turn began mandamus proceedings against the board.<sup>23</sup> But while these were yet under way, the board attempted to circumvent them by adopting a new set of rules for valuing capital stock which would permit it to give the companies light assessments. Under these rules the board assessed seven of the companies about twelve and one-half million dollars and exempted the remainder. The mandamus proceedings, however, were not abandoned; but the case dragged along in the courts for some months. At length, in May, 1901, a decision favorable to the teachers was reached and the board was directed to assess the corporations according to the old rules. The case was appealed but the supreme court reaffirmed the position of the lower court and, in November, 1901, issued a writ of man-

<sup>20</sup>*Cf. supra*, p. 202.

<sup>21</sup>*Cf. supra*, p. 203.

<sup>22</sup>*Chicago Tribune*, Oct. 24, 1900.

<sup>23</sup>*Ibid.*, Oct. 28, 1900.

damus directing the reassessment to be made.<sup>24</sup>

Dissatisfaction with the reassessment caused the case to be carried to the United States courts. Here it was held that the new assessment had not been made on the proper basis,<sup>25</sup> because the property of these corporations had been assessed at its full value while the property of other corporations had been undervalued.

When matters were finally adjusted the companies paid taxes on \$21,034,000, a substantially larger sum than that on which they had been assessed at first.<sup>26</sup>

<sup>24</sup>State Board of Equalization *v.* People, 191 Ill. 529 (1901; *Chicago Teachers Federation Bulletin*, Nov. 15, 1901.

<sup>25</sup>Chicago Union Traction Co. *v.* State Board of Equalization, 112 Fed. Rep. 607.

<sup>26</sup>*Chi. Teach. Fed. Bull.*, Nov. 22, 1911; *Chicago American*, Mar. 31, 1912, quoted in *Bulletin*; Fairlie, *op. cit.*, pp. 87, 88.

The tax campaign aroused much enthusiasm. Once started in the fight, the teachers seemed to forget the first cause of the campaign and they came to feel that they were angels of light engaged in a crusade against the forces of darkness, the "moneyed corporations." Articles upon the "moral significance" of the tax litigation appeared in the *Federation Bulletin* (see issue of Oct. 7, 1902) and doggerel like the following sample served to inspire the teachers:

*The Tax War.*

The Teachers' Federation

When it sought to right a wrong  
Was well aware 'twould have to fight  
A battle 'gainst the strong.

. . . . .  
They spent their money freely,  
Although their pay was small,  
To compel the equalizers  
To do justice unto all.

. . . . .  
But that great board, unheeding,  
In its duty still is lax,  
And the moneyed corporations  
Escape still their lawful tax.

. . . . .  
Brave hearts, be not discouraged,  
For when the fight is done,  
The world and you will reap the fruit  
Of victories you have won.

*Chi. Teach. Fed. Bull.*, Jan. 31, 1902.

After a substantial increase in 1909, due to the change in the legal assessment ratio from one-fifth to one-third, the assessment of the corporate excess has once more begun to decline. Less than half as many corporations were assessed in 1912 as in 1902. In 1912 only an even dozen corporations were assessed as much as \$100,000. The great majority of the assessments were for less than \$5,000.

Whatever the cause of the inactivity and inefficiency of the board may be, whether it is corruption as charged by the Illinois Tax Reform Association,<sup>27</sup> or its clumsy size and negligence, as suggested by the special tax commission<sup>28</sup> there seems to be little excuse for retaining the system. Its work could be done much more efficiently and probably more economically by a small expert body.

#### RAILROADS.

The assessment of railroad property is also divided among the local assessors and the state board of equalization, the board, in this case, carrying a larger share of the load. Not only does it assess the corporate excess of railroad companies but also such types of tangible property as are difficult for the local officials to assess in a satisfactory manner. The Illinois Central Railroad forms an exception to the general rule of assessment, being exempted from ordinary taxes in view of a percentage of gross receipts which it pays into the state treasury by charter agreement.<sup>29</sup>

The sections of the revenue law providing for the assessment of railroad property have remained unamended in any particular since they were passed in 1872. They provide that the proper officials of the railroad shall keep on record with the county clerk a description of the property in the county held by the railroad as its right of way, the length of all main, side, and second tracks and turnouts lying in the various taxing districts, and the value of improvements and stations located on

<sup>27</sup>*Report*, 1909, p. 10.

<sup>28</sup>*S. J.*, 47 G. A., 1 Sess., p. 184, et seq.

<sup>29</sup>*Priv. L.*, 1851, p. 71; *supra*, p. 108 et seq.

the right of way. All such property is classed as real estate and is designated "railroad track."<sup>30</sup> Annually each railroad must make statements of assessment data to clerks of the counties through which their roads run and to the auditor of public accounts. The statement which goes to the county clerks gives, in the first place, the value of the "railroad track" in the county, and second, the value of all the "rolling stock" which is defined as movable property belonging to any railroad. In addition to the above information, the statement which goes to the auditor each year contains data on the type of construction of the road-bed, the character of the improvements on the "railroad track", and a statement of the securities of the company similar to that furnished by other corporations taxed by the corporate excess method.<sup>31</sup> The auditor turns over the data to the state board of equalization which assesses the roads on their "railroad track", their "rolling stock" and their corporate excess, and distributes the assessed value among the local communities in the proportion that the main track lying within the boundaries of the district bears to the total length of the main track within the state. The only exception to this apportionment is that side or second tracks, turnouts and buildings on the right of way are taxed in the district where they chance to lie.<sup>32</sup> All real estate and personal property not included in "railroad track" and "rolling stock" is taxed by the local taxing authorities exactly as other taxable property, but such property is usually considerable in amount.

The introduction of this scheme of assessment in 1872 had the effect of increasing five-fold the valuation of the railroad property in the state, from \$25,568,784, in 1872, to \$133,520,633, in 1873.

But here also a shrinkage soon appeared which becomes evident from an examination of Table 19, which

<sup>30</sup>L. 1871-72, p. 13.

<sup>31</sup>*Supra*, p. 202.

<sup>32</sup>L. 1871-72, p. 14.

shows the total equalized assessment of railroads for the years designated.

TABLE 19.

## TOTAL EQUALIZED ASSESSMENT OF RAILROADS, 1873-1912. (a)

1873 .....	\$133,520,633
1874 .....	81,707,598
1875 .....	60,486,343
1880 .....	47,365,259
1885 .....	63,052,736
1890 .....	75,310,524
1895 .....	81,565,298
1900 .....	80,627,321
1905 .....	97,728,276
1906 .....	102,721,035
1907 .....	107,497,141
1908 .....	110,397,824
1909 .....	186,514,540
1910 .....	187,019,990
1911 .....	195,023,706
1912 .....	202,596,754

(a) Compiled from the *Proceedings of the Illinois State Board of Equalization* and from Fairlie, *Report on Taxation*, p. 218.

The low level of \$40,461,865 was reached in 1878. Since this date the assessment has pulled slowly but fairly steadily upward. The establishment of the one-fifth basis in 1898 made no perceptible difference, but the change to the one-third basis explains the rise from \$110,397,824 in 1908 to \$186,514,540 in 1909.

The year the law of 1872 went into effect the board found a corporate excess for the railroads amounting to \$64,611,071. But this had dwindled to about ten million in 1876 and the following year disappeared entirely. For the succeeding twenty years not a cent was assessed against the railroads on their capital stock. Since 1901 a very small amount, varying from approximately one to three millions, has been assessed each year, almost entirely a result of the Teachers' Federation campaign.<sup>33</sup>

Professor Fairlie in his report to the tax commission of 1910 commented upon the injustice of the method of ap-

<sup>33</sup>*Supra*, p. 206 *et seq.*

portioning the assessment according to the length of main line in the counties. Complaint has been particularly bitter in Cook County where it is contended that the greater value of the property lying within the county entitles it to a larger share than it receives under the mileage system. It was suggested that the railroad taxes afforded a possible source of state revenue in case it should become desirable to separate the sources of state and local taxation.<sup>34</sup>

#### TELEGRAPH COMPANIES.

Telegraph companies organized under the laws of Illinois are taxable on their corporate excess. The law prescribes that statements shall be made annually to the auditor giving the necessary information for an assessment. The valuation placed upon the companies is apportioned among the counties much as in the case of railroads, the amount assigned to a particular county depending on the length of line operated in the county compared with the total in the state.<sup>35</sup> The tangible property of the companies is locally assessed.

In 1872 an attempt to assess the capital stock of the Western Union Telegraph Company, a foreign corporation, was blocked in the courts.<sup>36</sup> Occasionally an Illinois telegraph company is assessed a small amount on its capital stock.<sup>37</sup>

#### BANKS.

Little change has been made in the method of assessing banks since 1867.<sup>38</sup> State banks organized under general law were not made taxable under the corporate excess method; national banks could not be so taxed. State banks organized under special laws were assessed in this manner until 1893, when they were exempted. Theoretically, bank stock is taxed as personal property to the stock-

<sup>34</sup>Fairlie, *Report on Taxation*, pp. 75-76.

<sup>35</sup>*L.* 1871-72, pp. 16, 17, 29.

<sup>36</sup>*Western Union Telegraph Co. v. Lieb et al.*, 76 Ill. 172 (1874).

<sup>37</sup>*Aud. Rep.*, 1912, p. 364 *et seq.*

<sup>38</sup>*Supra*, p. 117.

holders, but the tax is in reality paid by the banks, a sufficient amount to meet all taxes being deducted from earnings before dividends are paid to stock holders.<sup>39</sup> In 1872 a change was made which withdrew the allowance formerly made in the assessment for real estate owned by the bank and assessed in the regular way.<sup>40</sup> This, of course, affected chiefly the state banks, institutions with national charters being forbidden to hold real estate as a form of investment. The practice of allowing deductions for real estate seems to have continued, however; but in 1903 when a case was carried to the supreme court, such deductions were declared illegal.<sup>41</sup> But the state legislature, then in session, reenacted the provision permitting them, the very provision against which the decision of the court had been directed.<sup>42</sup>

A feature of the law of 1872 was section thirty-five which exempted from taxation stock owned by citizens of Illinois in national banks located in other states.<sup>43</sup> This was the only way that double taxation could be avoided if other states collected at the source.

The blundering manner in which the tax legislation has been drawn is well illustrated by the changes in the provisions for taxing state banks organized under special charters. Such banks were for some reason made taxable on their corporate excess rather than on the shares of stock. In 1893 the legislature exempted them from taxation on their corporate excess but neglected until 1905 to make the proper changes in the other sections of the revenue law whereby they could be taxed on their shares. In the meantime these banks were taxed by neither method.

The undervaluation of shares of bank stock has kept pace with the undervaluation of other property if the

<sup>39</sup>L. 1871-72, pp. 12, 13.

<sup>40</sup>*Ibid.*, p. 12.

<sup>41</sup>*Illinois National Bank v. Kinsella*, 201 Ill. 31 (1903).

<sup>42</sup>L. 1903, p. 294.

The Illinois Tax Reform Association charges graft in connection with the passage of this measure. See *Bulletin* 32.

<sup>43</sup>L. 1871-72, p. 12.

evidence of the *Report of the Bureau of Labor Statistics* is to be given weight. Interesting statistics, which are probably more trustworthy, appear in the protest of the Illinois Tax Reform Association to the board of review of Cook County in 1910. Here it is claimed that the capital stock of thirty-nine Chicago banks was assessed in 1909 on but forty per cent of a fair legal assessment.<sup>44</sup> It is also contended that the larger banks escape with a lighter assessment than the smaller ones. Statistics are presented which show that the stock of four of the largest banks was assessed at figures varying from twenty-four per cent to thirty-five per cent of a legal assessment value, while the stock of four of the smaller banks was taxed at practically one hundred per cent.<sup>45</sup>

#### INSURANCE COMPANIES.

It has been noted<sup>46</sup> that domestic insurance companies are assessed by the local officials on their property in general and by the state board of equalization on their corporate excess. The origin of the tax on the receipts of foreign insurance companies has also been treated.<sup>47</sup> The acts under which foreign insurance companies have been taxed all through the period under discussion and are still taxed were passed in 1869. Foreign fire, marine, and inland navigation insurance companies are by this legislation made taxable on their net receipts at the regular general property tax rates.<sup>48</sup> Net receipts have been defined not as net profits, but as gross receipts less operating

<sup>44</sup>*Bull. 32, Ill. Tax Ref. Ass., p. 1.* The statistical methods used in this document are not always above reproach, as for example the manner in which general averages are calculated on page 4. But nevertheless the statements seem to be substantially correct.

<sup>45</sup>*Ibid., p. 4.* For the assessment of the personal property of bankers *cf. supra*, pp. 153 *et seq.*

<sup>46</sup>*Supra*, pp. 128, 202.

<sup>47</sup>*Supra*, pp. 117-118.

<sup>48</sup>*L. 1869, p. 209; L. 1879, p. 179.* The former law had taxed gross receipts.

expenses only. Fire losses are not deducted.<sup>49</sup> In addition to this tax on their net receipts, foreign fire insurance companies are taxable on their gross receipts up to two per cent by the local communities for the support of fire departments.<sup>50</sup> Such a tax is open to criticism from the point of view of justice. It amounts to a special charge upon the careful man who insures his property to protect from loss the careless man who carries no insurance.

Foreign life insurance companies were released in 1869 from the tax on receipts and were made subject to a reciprocal tax, a charge which depends for its amount upon the attitude in matters of taxation assumed toward Illinois by other states.<sup>51</sup> Foreign casualty companies were brought under a reciprocal arrangement somewhat later.<sup>52</sup> Aside from a few fees, the statute places no set charge upon these companies but prescribes that the auditor shall ascertain the taxes imposed by the home state of each insurance company upon Illinois insurance companies doing business in that state. The amount charged against the companies by the Illinois auditor is determined by what is charged by the home state against similar Illinois corporations. The receipts from the various taxes and fees

<sup>49</sup>Moore, *op cit.*, p. 84; Republic Fire Insurance Co. v. Pollack, *et al.*, 75 Ill. 292 (1874).

<sup>50</sup>L. 1869, p. 228; L. 1871-72, p. 245; L. 1903, p. 221; L. 1895, p. 104; L. 1909, p. 126. An act passed in 1877 specified that one-fourth of the receipts from this tax should go to the fund for the relief of disabled policemen and firemen. L. 1877, p. 62. The fraction was raised to one-half in cities over 10,000 in 1883. L. 1883, p. 59. One-fourth of these receipts were to go to the pension fund in such cities by a law passed in 1901 (L. 1901, p. 97) and one-half by a law of 1905. L. 1905, p. 100. In 1899 the state superintendent of insurance was authorized to levy a two per cent tax on the gross receipts minus the taxes levied by the local authorities for the support of a fire department. L. 1899, pp. 265, 235. This act was soon declared unconstitutional. Raymond v. Hartford Insurance Co., 196 Ill. 329 (1902). Finally by an act passed in 1909, all fire insurance companies were made subject to an additional tax on their gross receipts, the rate not to exceed one-fourth of one per cent, for the support of the office of state fire marshal. L. 1909, p. 270.

<sup>51</sup>L. 1869, pp. 227, 228.

<sup>52</sup>L. 1889, p. 168; L. 1899, p. 237.

levied upon insurance companies have grown to considerable proportions in late years. In 1895 the total receipts from this source were but \$177,503.73. By 1900 they had grown to \$344,967.75. The receipts in late years have shown still greater increases, \$1,178,695.41 being the amount for the biennium ending November 1, 1912.<sup>53</sup>

In addition to the sources of revenue enumerated above, the state receives considerable sums from fees and from the inheritance tax. For the biennium ending November 1, 1912, the sum of \$2,690,787.29 was received into the state treasury from fees collected by the various state departments.<sup>54</sup> This comprised about twelve per cent of the total receipts into the Revenue Fund for this period.<sup>55</sup> The tax on inheritances has been imposed since 1895; the law was revised and the rates increased in 1909. The biennial receipts during this period have varied from \$39,179.98 (1896-98) to \$3,687,029.97 (1910-12). The yield for the biennium ending November 1, 1912, is decidedly unusual; in no other biennium does the return reach one half so large a figure. The inheritance tax at this time supplied about one-sixth of the income of the Revenue Fund. The Illinois Central payments have already been noted.<sup>56</sup> These are at present the only richly productive sources of state revenue aside from the general property tax.

<sup>53</sup>*Reports of the Insurance Superintendent; Auditors' Report, 1912, p. 1, and Fairlie, Report on Taxation, p. 111.*

<sup>54</sup>This sum includes the sum received from the insurance department.

<sup>55</sup>*Aud. Rept., 1912, p. 1; cf. Moore, op. cit., ch. 5.*

<sup>56</sup>*Supra, pp. 108 et seq., 209.*

## CHAPTER XII

### SUMMARY AND CONCLUSION

From the preceding survey it is difficult indeed to avoid the conclusion that the general property tax in Illinois is a very unsatisfactory piece of fiscal machinery. It is unequal in its application, unjust in its incidence, and inefficient in its administration. Indeed a complete list of its defects would include infractions of almost every commandment in the fiscal decalogue.

#### *Early Success.*

To give to the system the modicum of praise due it is a simple task. An examination of the history of the tax through the century and a quarter of its existence makes it evident that its chief claim for glory rests upon the fact that for the first two-thirds of that period, until about 1860, it was on the whole fairly successful. There were complaints, of course, but a tax has yet to be devised which can be applied without pain. "It is impossible to make omelet without breaking eggs." Undervaluation and inequality were present, it is true, but not to an extent which fatally impaired the efficiency of the system. The state owes the general property tax a debt of gratitude for its assistance during these trying years of debt payment. During the early forties the tax system seemed unable to bear the strain put upon it; but no system of taxation could have borne so great a burden. There was available no basis upon which to levy the heavy taxes demanded by the fiscal necessities of the state.

The causes for the comparative success of the system before 1860 are to be found in the conditions present at that time—conditions which have now largely disappeared. In the first place, the general property tax was satisfactory when property in general was tangible and

undifferentiated, and when it formed an acceptable criterion of faculty, or ability to pay. So much property is now intangible and unreachable by the property tax that the problem is entirely changed. Few would have the temerity to maintain that present-day tax returns in Illinois form an acceptable criterion of ability to pay. In the second place, the rates during a large part of the early period were trifling compared with the present-day rates. Much property that could be reached when rates were low can not be reached when rates have become high. So it appears that the strength of the general property tax lies in its past, and that its success depends upon conditions which have long since passed away.

*Present Defects.*

From the number of times the defects in the general property tax have been pointed out, it would seem superfluous to recount them here. But there can be no reform before the faults of the system are thoroughly appreciated; and the fact that they have not been fully recognized and appreciated in the past furnishes the only excuse for the lack of action thus far toward remedying the situation. The counts of the indictment are these:—

*There is gross undervaluation.*<sup>1</sup> In the examination of the entire period it is not possible to find a time when the assessment closely approached the real values. This is, of course, not a vital defect in itself. If a horse is listed at twenty dollars instead of one hundred, and all other horses are listed according to the same scale of depreciation, the rate will be five instead of one per cent and the farmer pays a dollar in taxes for his horse just the same. But the defects which undervaluation drags in its train are much more important—*viz.* lack of uniformity and universality.

*There is great lack of uniformity.* When one assessor values a hundred dollar horse at twenty dollars, another may value an equally valuable animal at ten dollars. The

<sup>1</sup>*Supra*, pp. 81-82, 83, 99-100, 112, 124, 133-134, 144, 167, 204, 215.

scale of undervaluation varies widely from individual to individual, and from county to county, so that uniformity is completely ignored in the practical working out of the system.<sup>2</sup>

*There is also great lack of universality.* Of course a man who is taxed on a lower scale of valuation than his neighbor is in a sense open to the charge of having evaded a part of the tax. Thus uniformity is implied in universality. But what is meant primarily when the term universality is used, is the degree of completeness of the assessment. Is all property in the state taxed, or does some escape? Evidence is presented in the foregoing chapters<sup>3</sup> which proves beyond a doubt that property in Illinois escapes taxation to an extent nothing short of startling. Real estate of course does not evade the assessment, but all kinds of personal property do to a considerable extent and intangible personal property to an alarming degree.

*The administrative organization is defective.* The wretched work of certain parts of the administration is a matter of common knowledge.<sup>4</sup> Perhaps the most inefficient part of the whole organization is the state board of equalization. There is no valid excuse for the further continuance of this body. There are many administrative irregularities, such as the widespread, illegal extension of rates which could be eliminated by a small expert tax commission. The revenue law itself is unnecessarily complicated and obscure and is consequently difficult to administer. There is considerable complaint about the system of township assessors and about the lack of promptness in paying over collections to the proper state officials.<sup>5</sup>

#### *The Necessity of Reform.*

Such conditions cry aloud for amelioration, but complaints have been raised so long and so continuously that the legislators have come to consider them normal and

<sup>2</sup>*Supra*, pp. 144, 169, 214.

<sup>3</sup>*Supra*, pp. 144, 205.

<sup>4</sup>*Supra*, pp. 132-133, 171, 174, 177.

<sup>5</sup>*Supra*, pp. 171, 179.

necessary. For forty years the General Assembly has been almost impervious to suggestion. Very extraordinary measures will probably be necessary to bring reform. In the late seventies there was a movement for tax reform whose net result was a joint resolution of the legislature. The revenue commission of 1886<sup>6</sup> made an able report and drafted a new revenue law with many admirable features. But none of their recommendations was adopted. The attacks of the Bureau of Labor Statistics in 1894 and 1896<sup>7</sup> deserved better results than the superficial and makeshift legislation of 1898. Finally, the moderate and well-considered recommendations of the commission of 1910<sup>8</sup> were utterly disregarded by the legislature which had requested and paid for them.

To one who views the problem from a distance there is an element of the pathetic as well as of the ludicrous in the situation. The ludicrous element is found in the attitude of the legislature in ignoring the recommendations of experts appointed to advise them and in persistently shutting their eyes to the lessons which the history of their own state and of other states and countries would teach them. The pathetic element is that the energies of the state are crippled by an antiquated and unfair financial system.

The state has reached an interesting stage in the evolution of her system of taxation. Changes of a more or less radical nature will soon be made, if the experience of other states may be taken as an indication of what is to be expected in Illinois. What has been the history of the system elsewhere? Professor Seligman, after a wide survey of the history of the general property tax in many lands, has generalized somewhat as follows: The system found its beginnings when economic conditions were primitive and when the needs of the state for revenue were such as to demand only a light tax rate. The tax usually took the form of a charge levied upon enumerated arti-

<sup>6</sup>*Supra*, pp. 157, 169, 171, 178, 190.

<sup>7</sup>*Supra*, pp. 169, 170, 214.

<sup>8</sup>*Supra*, pp. 170, 171, 174, 178-179, 193, 209, 211.

cles—a tax on *things* rather than a tax on *persons*. With the progress of the community, the amount and variety of its wealth multiplied; more and more articles were added to the assessment list until at length it became more simple to make the tax a personal one—to tax everyone according to the value of all the property he owned individually rather than to tax the specific articles themselves. But soon it became evident that intangible personal property played a very insignificant rôle in the individual's estimate of the value of his taxable property; the importance of this class of property annually became smaller until the attempt to reach it for taxation became a mere farce. Then the law was so changed as to acknowledge frankly what was already known to be true, that certain kinds of personal property were not assessable under the general property tax system. What was left as the tax base, after this change was made in the code, was merely real estate; real estate usually included houses but even these were gradually eliminated from the assessment lists, leaving only the land. So, at the end of the series, there is again an impersonal tax levied on a specific article. The tax paying ability represented by property other than real estate must be reached by other methods than the general property tax. Changes in the system usually come in response to changes in fundamental economic conditions. The escape of personal property from taxation is not a serious problem in the primitive stages of economic development; there is not enough of that kind of property to matter. But later when economic conditions have changed, that element in the total wealth of the community has increased both absolutely and proportionally. At the same time the temptation to evasion has become stronger; for at this stage in the process, the need for more revenue usually makes itself felt and the higher tax rate has a tendency to frighten away intangible property.

The earlier stages in the life history of the system are clearly discernible in the history of taxation in Illinois. In the early years of the nineteenth century, the cycle

opened with a tax on a number of specific articles. From the beginning, the tax code was a reflex of the economic conditions; there were at first but few kinds of property and the simplest way to levy the tax was to enumerate the items on which the tax was to be made. Gradually more and more kinds of property were added until at length the tax changed its character. It is now a personal tax; everyone is taxed, theoretically at least, on all he possesses, not even his household property being exempted. Desperate attempts have been made to prevent evasion, attempts which have excited the curious amusement of tax experts everywhere. But in spite of every effort, personal property taxation in Illinois furnishes one of the best examples extant to-day of how complete can be the failure of the general property tax.

During the first thirty years of the history of the state, frontier conditions prevailed, the property was homogeneous, the demands of the government were not large, and it was found that a crude and primitive form of the general property tax sufficed to meet the needs. During the next few decades the necessity arose for securing a large revenue; but by wise alterations the code was revamped so as to meet, fairly successfully, the new conditions. This was only possible, however, because the property, to a large extent, was still tangible, undifferentiated, and homogeneous. It is only in the last forty years in Illinois that the system has broken down badly. Under the stress of constantly increasing demands for revenue and of constantly increasing difficulty in discovering and assessing personal property, the situation has grown progressively worse and in some quarters at least has become almost intolerable. The canons of universality and uniformity, so carefully provided for in the state constitution and in the theory of the code, are so flagrantly violated in actual practice that some change is imperative.

It is not very easy to explain why a state which is so far before its neighbors in general economic development should in tax matters be so far behind almost all of them.

Among the reasons for this backwardness, the first place should be given to inertia. The legislature has shown a persistent reluctance to deal with the problem. It was something to be postponed indefinitely, to be buried in committees or to be further investigated by commissions, but not to be taken seriously. Because of its technical nature the subject lends itself readily to treatment of this sort. The people at large have not been vitally interested because the attention of many of the most able and influential men has been thus far almost exclusively occupied with other things, problems of production, for the most part. The enormous economic development of the state has operated to obscure the importance of the injustices of the tax system. But the exploitation period is now well advanced in Illinois and this cause of retardation will become constantly weaker. But there should also be mentioned a more sinister cause, one which is spoken of only occasionally in a radical paper or pamphlet of a radical society, and then with bated breath. It is suggested that the corporations of the state are quite well satisfied with the present state of affairs. And well they may be.<sup>9</sup>

The conflict in the interests of the various sections of the state also serves to obstruct tax reform. Illinois is a curious mixture of the primitive and the modern. Always rich agriculturally, it has of late years developed enormous commercial and industrial wealth. In the sections of the state where this newer development has taken place, tax reform has been the logical step for many years past; it is recognized that the degenerate form of the general property tax is no fair test of the ability of the merchant, the manufacturer, and the mine operator to contribute to the expenses of the government. In the agricultural part of the state, on the other hand, the general property tax has been in the past more satisfactory. Even here, there are great undervaluations, evasions and inequalities, but comparatively speaking the tax has not been so obviously a failure. To the local officials who administer the law in

<sup>9</sup>*Supra*, p. 203 *et seq.*

the rural districts, the assessment list is a fine joke-book; but the situation has not been so bad as to be particularly offensive to the passerby. The crying evils come largely from the different economic constitution of the various parts of the state. The sections are not at all alike, and they demand somewhat varied treatment in matters of taxation. But all concerned seem to be afraid of the whole question. The business interests dread any change, for it is likely to mean an attempt to get nearer to their true taxable capacity than is done at present, and they feel that almost any change would be the worse for them. On the other hand, the agriculturists lift their hands in horror at the thought of allowing various classes of property to be assessed differently or taxed at different rates. They still worship the *Lares* and *Penates* of their fathers; all property must be taxed according to its value. Exempt mortgages and credits? The very suggestion is alarming to them. It is a trick of the lawyers for the city interests to make even heavier the load of taxation for the farmer. But they forget entirely that at present practically no mortgages and credits are actually reached in the cities. They forget also that the proposed constitutional change would make it possible to shift some of the heavy burden from real estate to the young and sturdy shoulders of commerce and manufactures which have developed and grown strong since the present tax system was formed.

### *Suggested Reforms.*

It is clear that something should be done. Tax reform of some sort must come and come quickly if the state is to avoid disastrous consequences. There is no escape from this conclusion. To discuss what form the legislation should take is not strictly within the province of this study. It is believed, however, that it has been sufficiently demonstrated that the general direction of the reform should be away from the present system. Real estate will, of course, under any system remain the most important part of the tax base, whether the state shares in the return

from the land tax or not. But the history of taxation shows that any attempt to rehabilitate the general property tax as a whole is destined to almost certain failure. No method devised by man can enforce the general property tax without a different moral sentiment among the people than that which now exists. It is possible that, if such a moral sentiment could be created among the tax payers, the introduction of a radical administrative reform would result in the listing of property in general for taxation. But granted that these impossible conditions could be met, it is extremely doubtful whether it would be advisable to bring them about. For property under the complicated conditions which exist to-day is coming to be less and less trustworthy as an index of faculty or ability-to-pay and income is becoming more and more satisfactory. Experience elsewhere has revealed better methods of reaching ability-to-pay. Even if attainable, the ideal of the general property tax would to-day not be worth reaching.

It may serve a useful purpose to enumerate some of the measures which have recommended themselves to students of the problem as desirable steps toward a better taxing system. They may be arranged in the form of a series of gradations, each step depending upon the degree of conservatism of the reformer in question.

(1). Even the "standpatter" could scarcely object to a proposal to codify and simplify the present revenue code. Even if no changes were made, the codification would doubtless result in an increased efficiency in public administration in general, an end well worth striving for.

(2). The proposal for a permanent tax commission should arouse no considerable opposition, other than that of the politicians who would resent the replacement of the state board of equalization and of the corporations which might expect less liberal treatment under some new arrangement. But unfortunately this type of opposition has a faculty of making itself very effective. Such a commission could be used to great advantage even if the pres-

ent system of the general property tax were retained unmodified to any considerable extent, or could readily be adapted to the needs of any more fundamental reforms which it might seem well to adopt. The plan of a small expert body has everywhere proved more satisfactory for this particular bit of administrative work than a large, elective body such as the state board of equalization.

(3). Little can be done in the way of more thoroughgoing reform until the hands of the legislature are freed from the constitutional restrictions. The constitution now stipulates the general property tax. But the legislature has thus far shown no great desire for freedom of action in tax matters. There is slight excuse for denying the people permission to express themselves upon the question of the advisability of giving the legislature authority to devise some new system. Distrust of the legislature may make it seem desirable to incorporate the tax system into the organic law of the state. If so, the sooner a constitutional convention is called, or amendments providing for specific reforms are submitted, the better it will be for the fiscal health of the community. In the second case the legislators will merely be relieved of the responsibility from which some of them seem to shrink. On the whole, because of the complicated nature of the problem, it would seem the wisest plan first to create a trustworthy expert commission, and second to liberate the legislature so that it could adopt its recommendations.

(4). A reform which has proceeded far enough in other states to outgrow the stigma which attaches itself to any new proposal is the separation of the sources of state and local revenue. As has been seen,<sup>10</sup> this plan is far from novel in Illinois. During the early years of the state's history an upside-down system of segregation was actually in force in the state, the proceeds from land taxes going to the state and from personal property taxes going to the localities. The revenue commission of 1886 was the first official commission in the history of the country to recommend segregation as an antidote for undervaluation

<sup>10</sup>*Supra*, pp. 44, 178.

and the resulting inequality. If the state were to resign the mass of real and personal property to the localities for taxation and depend for its revenue upon various "indirect" taxes to be developed, the incentive for undervaluation would be in part removed. It would then be possible for a single locality, if so minded, to proceed to the work of assessment reform unhampered by a prospect of increased state taxes imposed as a penalty for its progressiveness. The beneficial results achieved in New York City should be a strong argument to Chicago in favor of the adoption of such a system. There, real estate valuations have risen to a very close approximation of cash values. By a system of tax maps and unit values, inequality is practically eliminated. There can be no doubt of the good effect of such a measure upon real estate taxation. But before such a scheme could be adopted in Illinois a constitutional amendment would be necessary.

(5). If the state were to resign the general property tax to the localities, the question of the justice of the tax would still remain unsettled. Separation of sources holds great promise for better real estate assessments and perhaps some promise for the assessment of tangible personalty. But it offers little encouragement to the seeker for a means of taxing intangible personal property. But most of this property is not reached under the present system.<sup>11</sup> There are those who would abandon the tax on both tangible and intangible personal property. Substitutes which would certainly be more satisfactory than the present system are not lacking. For the tax on mortgages and corporate securities a recording and registry tax might be supplied. No one can deny the superior justice of a light recording tax on all mortgages over a heavy general property tax on the unhappy few who happen to fall into the assessors' net under the present system. A series of business taxes might well replace the present levy on stock in trade. Unproductive tangible personalty, such as house furnishings etc., and much of the tangible personalty

<sup>11</sup>*Supra*, p. 146 *et seq.*

of the farmers might be exempted without serious consequences.

(6). The policy toward the taxation of corporations would depend so largely upon the disposition made of the foregoing suggestions that it seems idle to discuss it in detail here. It may be well to point out, however, that for the base of the tax upon such corporations as form the bulk of those now assessed by the state board of equalization, the best opinion seems to prefer net income rather than stocks, bonds, or corporate excess. Any advance at all in corporation taxation almost inevitably presupposes the expert assistance of a commission.

Any changes should be made gradually, of course. Many persons do not appreciate the extent to which taxes are capitalized;—to what fine degrees the various inequalities, evasions, and discriminations are reflected in the values of the various kinds of property. In a sense things as they are have a certain right to be simply because they do exist in their present condition. Much property is bought and sold whose value would be entirely different if the tax laws of the state had been and were being enforced in a strict and efficient manner; and often both parties to the transaction buy and sell in entire ignorance of the fact that the values in which they deal are dependent upon the degree of badness with which a law is enforced. Sudden and unheralded changes in the tax code have the possibility of causing much injustice and suffering through their very suddenness, even though the changes, in themselves, be thoroughly desirable. But this is no reason why bad conditions should always be bad. For them to remain so suggests cowardice in grappling with the problem. Many people are coming to believe that it is high time that changes should be initiated and a start made toward a more equable and more efficient revenue code for Illinois. But until the people as a whole reach a state of mind where they can think of their tax problem without being incapacitated for action both by fevers of conscience and chills of apprehension, no reformation can be expected.

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